

**Notice of Proposed Rule Making**

~~(1) Prior to the adoption, amendments, or repeal of any~~ Before permanently adopting, amending, or repealing any permanent rule, ~~the State Board of Education~~ Higher Education Coordinating Commission shall give notice of the ~~intended action proposed adoption, amendment, or repeal:~~

~~(1)- (a)~~ In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date of the rule;

~~(2)- (b)~~ By mailing or e-mailing, at least 28 days before the effective date of the rule, a copy of the notice to persons on the ~~State Board of Education's Commission's~~ mailing and e-mailing lists ~~list~~ established pursuant to ORS ~~183.335(7)~~ 183.335 (8); at least 28 days prior to the effective date of the rule

~~(3)- (c)~~ By mailing or e-mailing a copy of the notice to the legislators ~~as provided by~~ specified in ORS ~~183.335(14)~~ 183.335 (15) at least 49 days ~~prior to~~ before the effective date of the rule; and

~~(4)- (d)~~ ~~To the general public, by posting the notice on the Department's website at least 28 days prior to the effective date of the rule.~~ By mailing or e-mailing a copy of the notice to persons, organizations, and publications identified by the Commission and established educational, student, and parent organizations that have submitted mailing or e-mailing addresses to the Commission.

~~(2)~~ Persons who wish to receive written or e-mailed copies of notices of proposed rulemaking from the Commission may write or e-mail the Commission and request that they be placed on the Commission's mailing or e-mailing lists.

~~(3)~~ The Commission may update the mailing and e-mailing lists described in this rule annually by requesting persons to confirm that they wish to remain on the lists. If a person does not respond to a request for confirmation within 28 days of the date the Commission sends the request, the Commission will remove the person from the Commission's mailing and e-mailing lists. Any person removed from the mailing or e-mailing lists will be returned to the mailing or e-mailing list upon request, provided that the person provides a mailing address or e-mailing address to which notice may be sent.

Stat. Auth.: ORS ~~326.054~~ 183.335, 183.341 (4) & 351.735

Stats. Implemented: ORS 183.335

Hist.: EB 12-1991, f. & cert. ef. 7-19-91; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0000; DCCWD 1-2003, f. & cert. ef. 1-9-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

589-001-0100

## Model Rules of Procedure

~~The Pursuant to the provisions of ORS 183.341, the Higher Education Coordinating Commission adopts the Attorney General's Uniform and Model and Uniform Rules of Procedure under the Administrative Procedures Act in effect on January 1, 2012. are hereby adopted to guide the Department of Community Colleges and Workforce Development in the development of administrative rules.~~

[ED. Note: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Higher Education Coordinating Commission.]

Stat. Auth.: ORS ~~326.054~~ 183.341, 351.735 & 660.318

Stats. Implemented: ORS 183.341

Hist.: EB 12-1991, f. & cert. ef. 7-19-91; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0006

**589-001-0200**

**Establishing Fees for Public Records**

~~Information Dissemination and Public Records:~~ The ~~State Board of Education~~ Higher Education Coordinating Commission, through the Department of Community Colleges and Workforce Development, may charge a fee based upon actual cost of supplying, reproducing, handling, shipping or otherwise processing public records on request.

Stat. Auth.: ORS ~~326.054~~ 351.735

Stats. Implemented: ORS 192.440

Hist.: 1EB 130, f. 5-5-72, ef. 10-15-72; 1EB 258, f. 1-31-77, ef. 2-1-77; 1EB 6-1984(Temp), f. & ef. 3-7-84; 1EB 10-1984, f. & ef. 4-13-84; EB 12-1991, f. & cert. ef. 7-19-91; Renumbered from 581-046-0005; ODE 1-2001, f. 1-25-01, cert. ef. 1-26-01; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0011

## General Definitions

589-001-0300

### Definitions for OAR Chapter 589, Divisions 1 through 10

For the purposes of OAR chapter 589, divisions 001 through 010, the following definitions apply:

(1) "Executive Director" means the Executive Director appointed under ORS 351.735 by the Higher Education Coordinating Commission.

(1)-(2) "Commissioner" means the Commissioner for Community College Services appointed under ORS ~~326.375~~ 351.762;

(2)-(3) "Board" means the board of education of a community college district;

(3)-(4) "State Board" means the State Board of Education; "Higher Education Coordinating Commission" means the commission established under ORS 351.715.

(4)-(5) "Department" means the Department of Community Colleges and Workforce Development;

(5)-(6) "Community College" means a public institution operated by a community college district for the purposes of providing courses of study limited to not more than two years' full-time attendance and designed to meet the needs of a geographical area by providing educational services, including but not limited to professional technical education programs or lower division collegiate programs.

(6)-(7) "Community College District" or "District" means a district formed under ORS Chapter 341 to operate one or more community colleges or to secure educational services available at a community college.

(7)-(8) "Full-Time Equivalent (FTE) Student", for the purpose of receiving state reimbursement, means a student who carries 510 clock hours over three terms of instruction.

(8)-(9) "Reimbursable Full-Time Equivalent (RFTE) Student" means a student defined by section (7) of this rule whose earned hours qualify the district for cost reimbursement by the State of Oregon in accordance with OAR 589-002-0100, et seq.

(9)-(10) "Term Hour" means a 50-minute period of course work a week per student for approximately one-third of a school year.

Stat. Auth.: ORS ~~326.054~~ 351.735

Stats. Implemented: ORS ~~326.054~~ 351.735

Hist.: EB 12-1991, f. & cert. ef. 7-19-91; EB 8-1995, f. & cert. ef. 3-6-95; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0020

## 589-002-0100

### Community College Support Fund Distribution

#### Purpose Statement:

(1) It is in the state's interest to support a strong local community college system that meets local, regional and state economic and workforce development needs. Short and long-term interests include the consideration of such things as comparable District funding capability, maintaining small districts as a means of educational access and stable, predictable funding. Oregon's community college distribution formula is designed to provide a financial foundation to support undergraduate and lower-division education, career technical education, remedial education, local response to workforce training, and other educational services necessary at the local and state level.

(2) The ~~State Board Higher Education Coordinating Commission~~ through the authority vested in it by ORS ~~341.626 351.735~~, uses this rule to state clearly and concisely what the statewide interests are for Oregon community colleges and students through the adoption of a policy-driven distribution formula. The overarching policy, chosen by the ~~State Board Higher Education Coordinating Commission~~, has been structured to support access, stability and quality, and to do so with equity for Oregon students. Principles which support these policies include:

(a) Access is supported by having the funding follow the student to the college which they are attending.

(b) Quality is supported when adequate funding per student is available.

(c) Growth management is a tool to prevent erosion of the level of funding per student.

(d) Equity is supported by the equalization of public resources distributed per student.

(e) Stability is supported by buffering fluctuations in student enrollment through growth management and by using a three-year weighted average of students by college to distribute state funds.

[ED. NOTE: Tables referenced are not included in rule text. [Click here for PDF copy of table\(s\).](#)]

Stat. Auth.: ORS ~~326.054~~351.735, 341.015, 341.022, 341.317, 341.440, ~~341.525~~ 341.484, ~~341.528~~ 341.492, 341.626 & 341.665

Stats. Implemented: ORS 341.015, 341.022, 341.317, 341.440, ~~341.525~~ 341.484, ~~341.528~~ 341.492, 341.626 & 341.665

Hist.: 1EB 9-1979, f. & ef. 6-11-79; EB 12-1991, f. & cert. ef. 7-19-91; Renumbered from 581-043-0260; ODE 27-2000, f. & cert. ef. 10-30-00; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0200; DCCWD 2-2001, f. & cert. ef. 5-7-01; DCCWD 3-2002, f. & cert. ef. 6-5-02; DCCWD 7-2002(Temp), f. & cert. ef. 12-16-02 thru 6-5-03; DCCWD 3-2003, f. & cert. ef. 5-14-03; DCCWD 1-2004, f. & cert. ef. 7-1-04; DCCWD 1-2005, f. & cert. ef. 7-13-05; DCCWD 2-2006(Temp), f. & cert. ef. 6-15-06 thru 11-30-06; DCCWD 6-2006, f. 10-3-06, cert. ef. 10-4-06; DCCWD 8-2006, f. 12-13-06, cert. ef. 12-15-06; DCCWD 2-2007, f. & cert. ef. 7-6-07; DCCWD 4-2007, f. & cert. ef. 10-1-07; DCCWD 3-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10; DCCWD 5-2009, f. & cert. ef. 10-28-09; DCCWD 1-2011, f. & cert. ef. 4-20-11; DCCWD 1-2012(Temp), f. & cert. ef. 7-17-12 thru 1-10-13; DCCWD 3-2012, f. & cert. ef. 12-26-12; DCCWD 3-2013, f. & cert. ef. 6-11-13

## 589-002-0110

### Definitions

The following definitions apply to OAR 589-002-0100 through 589-002-0130.

(1) "Total Public Resources (TPR)" is what the Community College Support Fund formula considers 100% of the next year's imposed property tax revenue and the General Fund appropriation from the legislature. TPR does not include tuition and fees paid by students.

(2) "Base Payment" is an allocation made from the Community College Support Fund which provides funding for basic community college district operations that are essential and do not vary in direct proportion to the districts' Full-Time Equivalent (FTE) student enrollment. The base allocation increases stability and predictability of funding for individual colleges.

(3) "Equalization" means equal public resource support per funded FTE, regardless of community college district, and exclusive of the base. Equalization is measured by dividing Total Public Resources, exclusive of the base, by funded FTE.

(4) "Property tax revenues" means the amount determined by the Department of Revenue to be imposed on local property following the application of limits imposed by sections 11(b)(1) through 11(b)(3), Article XI, of the Oregon Constitution, and those limits imposed by legislation implementing Ballot Measure 50. This amount becomes the basis for operation of the funding formula without regard to uncollectible taxes, or taxes collected from previous years. Taxes levied or imposed by a community college district to provide a public library system shall be excluded from the definition of property taxes in this rule. Property tax revenues raised through voter approval of any local option or capital construction levy are not to be included as a resource to be distributed through the funding formula.

(5) "Community College Support Fund (CCSF)" is funding received through the state's General Fund appropriation and distributed to the community college districts for funding educational programs.

(6) "Full-Time Equivalent (FTE) student" for the purpose of receiving state reimbursement, means a student who carries 510 clock hours over three terms of instruction for all terms including a fall 12-week term. All colleges with an 11-week fall term will have their fall term clock hours increased to the equivalent 12-week hours for the purpose of calculating reimbursable FTE.

(7) "Total Reimbursable FTE" means full-time equivalent students that are eligible for state reimbursement. These students must receive instruction from community college districts through either a contracted out-of district (COD) agreement described in OAR 589-002-0600, an agreement to provide services to state penitentiary or correctional institution inmates described in OAR 589-002-0700, or are CCSF reimbursable FTE, described in Section 8 of this rule and in OAR 589-002-0110 Sections (2) through (5).

(8) "CCSF Reimbursable FTE" means full-time equivalent students that are eligible, as described in OAR 589-002-0110 Sections (2) through (5) of this rule, for state funding through the CCSF Funding Distribution Formula, before the application of the Annual Growth Factor (AGF).

(9) "Contracted Out-of-District (COD) Reimbursable FTE" means full-time equivalent students that are not residents in the community college district that they are attending and for which the community college district has a contract to provide educational services with an entity in the geographic area from which the student resides. COD reimbursable FTE must meet all other requirements of a CCSF reimbursable FTE. The community college district must have a contract in place with the Department of Community Colleges and Workforce Development in order to receive reimbursement.

(10) "Fundable FTE" is the number of full-time equivalent students that are at or below each community college district's FTE Cap. Fundable FTE is the lesser of either the CCSF reimbursable FTE or the FTE cap. This number is used in the three-year weighted average calculation that determines a community college district's funded FTE as described in Section 11 of this rule.

(11) "Funded FTE" is the community college district's number of full-time equivalent students used in the formula to distribute the CCSF funding for each community college district. This number is buffered to prevent significant changes in a community college district's funding due to variability in student enrollment. It is calculated using a three-year weighted average of fundable FTE with the first year prior to current fundable FTE weighted at 40%, second year prior to current fundable FTE weighted at 30%, and third year prior to current fundable FTE weighted at 30%.

(12) "Total Funded FTE" is the sum of all community college districts' funded FTE for a fiscal year.

(13) "FTE Cap" is the maximum number of CCSF reimbursable FTE per community college district, which may be included in the funding formula calculation. The FTE cap is determined by applying the annual growth factor and may be adjusted by the preliminary FTE cap as described in Section 14.

(14) "Preliminary FTE Cap" is a tool that allows a community college district to recover fundable FTE within one year, if the district's CCSF reimbursable FTE is less than the FTE cap. There are two preliminary FTE caps. The first is based on the FTE cap from one year prior and the second is based on the prior year's fundable FTE. The annual growth factor (as defined in Section 19 below) is applied to each. The current year's FTE cap is the greater of these two numbers.

(15) "Growth Management" means the application of the Growth Management Component in combination with each community college district's FTE cap.

(16) "Biennial Growth Management Component" is the percent change, from one biennium to the next, of the total number of FTE for all community college districts that could be included in the funding formula without reducing resources available per FTE. The biennial growth management component is determined by the amount of total public resources available for the current biennium compared to the prior biennium and the estimated increased cost of FTE.

(17) "~~State Board of Education's~~ Higher Education Coordinating Commission's Biennial Quality Growth Factor" is a policy lever that allows the number of FTE that will be counted for funding purposes to be above or below the Biennial Growth Management Component.

(18) "Total Biennial Growth Management Component" is the sum of the Biennial Growth Management Component and the ~~State Board of Education's~~ Higher Education Coordinating Commission's Biennial Quality Growth Factor.

(19) "Annual Growth Factor (AGF)" is one-half of the Biennial Growth Management Component.

[ED. NOTE: Tables referenced are not included in rule text. [Click here for PDF copy of table\(s\).](#)]

Stat. Auth.: ORS ~~326.051~~ 351.735, 341.015, 341.022, 341.317, 341.440, ~~341.525~~ 341.484, ~~341.528~~ 341.492, 341.626 & 341.665

Stats. Implemented: ORS 341.626

Hist.: DCCWD 1-2012(Temp), f. & cert. ef. 7-17-12 thru 1-10-13; DCCWD 3-2012, f. & cert. ef. 12-26-12; DCCWD 3-2013, f. & cert. ef. 6-11-13

### Community College Support Fund Distribution Methodology

(1) The Community College Support Fund shall be distributed in equal payments as follows:

(a) For the first year of the biennium, August 15, October 15, January 15, and April 15;

(b) For the second year of the biennium, August 15, October 15, and January 15;

(c) The final payment of each biennium is deferred until July 15 of the following biennium as directed by the 71st Oregon Legislative Assembly.

(d) Should any of the dates set forth above occur on a weekend, payment shall be made on the next business day.

(e) All payments, made before actual property taxes imposed by each district are certified by the Oregon Department of Revenue, shall be based on the department's best estimate of quarterly entitlement using property tax revenue projections. Payments shall be recalculated each year as actual property tax revenues become available from the Oregon Department of Revenue and any adjustments will be made in the final payment(s) of the fiscal year.

(2) Community college districts shall be required to submit enrollment reports in the format specified by the Commissioner, including numbers of clock hours realized for all coursework, in a term-end enrollment report by the Friday of the sixth week following the close of each term. If reports are outstanding at the time of the quarterly payments, payment to the district(s) not reporting may be delayed at the discretion of the Commissioner.

(a) All payments, made before actual Full-Time Equivalent student enrollment data are available shall be based on the department's best estimate of quarterly entitlement using student enrollment data from previous years.

(b) Payments shall be recalculated each year as Full-Time Equivalent student enrollment data become available and any adjustments will be made in the fiscal year.

(3) Reimbursement from the Community College Support Fund shall be made for career technical, lower-division collegiate, developmental education and other courses approved by the ~~State Board~~ Higher Education Coordinating Commission in accordance with OAR 589-006-0100 through 589-006-0400. State reimbursement is not available for hobby and recreation courses as defined in 589-006-0400.

(4) Residents of the State of Oregon and the states of Idaho, Washington, Nevada, and California shall be counted as part of each community college district's CCSF reimbursable FTE, but only for those students who take part in coursework offered within Oregon's boundaries.

(5) State funding for community college district operations is appropriated by the legislature on a biennial basis to the Community College Support Fund. The amount of state funds available for each biennium and for distribution through the funding formula shall be calculated based on the following:

(a) Funds to support services provided to inmates of state penitentiary and correctional institutions by community college districts shall be subtracted from the amount allocated to the Community College Support Fund before the formula is calculated. The amount available for services provided to inmates shall be equal to the funding amount in the preceding biennium, except as adjusted to reflect the same percentage increase or decrease realized in the overall Community College Support Fund appropriation. The distribution method of CCSF funding for individual state penitentiary and correction institution programs provided by community college districts will be determined in consultation between the agency and the Department of Corrections.

(b) Funds to support contracted out-of-district (COD) programs described in OAR 589-002-0600 shall be subtracted from the amount allocated to the Community College Support Fund before the formula is calculated.



(A) A community college district providing contracted out-of-district services will receive an allocation equal to the college's number of reimbursable COD FTE multiplied by the statewide average of non-base community college support funds per total funded FTE. The average funds per total funded FTE is based on the same year COD services are provided.

(B) The allocation is distributed after the reimbursable COD FTE has been reported to CCWD for the full academic year. An adjustment to the allocation may be made if the final audited FTE is significantly different than the COD FTE from which the allocation was made.

(C) Beginning July 1, 2014, to be eligible for a COD allocation, each participating community college district must:

(i) Provide the department with a copy of the agreement between the community college district and the local participating entity by October 1st of each service year.

(ii) Enter into a contract with the department by January 1st of the service year for a COD allocation payment.

(iii) Follow all requirements found in OAR 589-002-0600.

(D) Section (5)(b)(A) and (B) of this rule applies to COD contracts that were in effect starting with the 2012–13 fiscal year.

(c) Funds to support targeted investments such as distributed learning shall be subtracted from the amount allocated to the Community College Support Fund before the formula is calculated. The amount available for these investments shall be equal to the funding amount in the preceding biennium, except as adjusted to reflect the same percentage change to the current biennium's total Community College Support Fund appropriation.

(d) Funds remaining in the Community College Support Fund shall be distributed through the formula as described in Section 6.

(e) State general fund and local property taxes for territories annexed or formed effective June 1, 1996 or later shall not be included in the funding formula for the first three years of service. Additionally, the FTE generated in newly annexed territories shall not impact the funding formula during the first three years of service. Beginning in the fourth year, funding will be distributed through the formula as outlined in this rule.

(6) Distribution of funds to community college districts from the Community College Support Fund shall be accomplished through a formula, based on the following factors:

(a) Base Payment: Each community college district shall receive a base payment of \$720 for each Weighted Reimbursable FTE up to 1,100 and \$360 per FTE for unrealized enrollments between actual Weighted Reimbursable FTE and 1,100 FTE. The base payment for each community college district will be adjusted according to the size of the district. Community college district size for purposes of this adjustment will be determined each year by the FTE set forth in section (8)(b) of this rule. The base payment adjustments shall be:

(A) 0 – 750 FTE 1.3513;

(B) 751 – 1,250 FTE 1.2784;

(C) 1,251 – 1,750 FTE 1.2062;

(D) 1,751 – 2,250 FTE 1.1347;

(E) 2,251 – 2,750 FTE 1.0641;

(F) 2,751 – 3,250 FTE 1.0108;

(G) 3,251 – 3,750 FTE 1.0081;

(H) 3,751 – 4,250 FTE 1.0054;

(I) 4,251 – 4,999 FTE 1.0027;

(J) 5,000 or more FTE 1.000.

(b) Student-Centered Funding: The formula is designed to distribute the Community College Support Fund based on each community college district's FTE.

(A) The equalized amount per FTE is determined by dividing Total Public Resources — excluding base payments, contracted out-of-district payments, and any other payments directed by the ~~State Board of Higher Education~~ Coordinating Commission or the legislature — by funded FTE. The department shall make the calculation based on submission of FTE reports by community college districts and in accordance with established FTE principles.

(B) To determine the number of funded FTE for each community college district, a three-year weighted average of fundable FTE for each community college district will be used with the first year prior to current fundable FTE weighted at 40%, second year prior to current fundable FTE weighted at 30%, and third year prior to current fundable FTE weighted at 30%.

(c) Beginning with the 2011-13 biennium, a Biennial Growth Management Component is added to the calculation of each community college district's funded FTE. The purpose of the Biennial Growth Management Component is to manage the level of total public resource available per FTE within the total public resources available.

(A) The methodology for calculating the base year and subsequent biennial growth management component is displayed in Table 1 "Community College Support Fund Growth Management Calculation Tables" and is available through the following hyperlink. [Table not included. See ED. NOTE.]

(B) The calculations that will implement the Growth Management Component in the CCSF Distribution Formula Model are available in Table 2. Formula Calculation of Fundable FTE by Community College District." [Table not included. See ED. NOTE.]

(C) The ~~State Board of Education (SBE)~~ Higher Education Coordinating Commission has authority, on a biennial basis to, set the "quality growth factor" that may increase or decrease the number of FTE that will be counted for funding purposes above or below the Biennial Growth Management Component. The SBE will consider the following principles as guidelines for setting the "quality growth factor":

(i) Balance the desire to support growth beyond that which is funded through the funding formula distribution model with the desire to enhance quality by increasing the level of funding provided on a per-student FTE basis.

(ii) The Total Public Resources (TPR) per FTE should not erode by more than 5% on an annual basis.

(iii) Where current TPR per FTE is determined to be insufficient to support the "quality of education" desired, a growth factor could be established that would increase the TPR per FTE.

(iv) If revenue is significantly reduced during a biennium, the ~~Board~~ Higher Education Coordinating Commission may reduce the "quality growth factor."

[ED.NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS ~~326.054~~ 351.735, 341.015, 341.022, 341.317, 341.440, ~~341.525~~ 341.484, ~~341.528~~ 341.492, 341.626 & 341.665

Stats. Implemented: ORS 341.626

Hist.: DCCWD 1-2012(Temp), f. & cert. ef. 7-17-12 thru 1-10-13; DCCWD 3-2012, f. & cert. ef. 12-26-12; DCCWD 3-2013, f. & cert. ef. 6-11-13; DCCWD 6-2013(Temp), f. & cert. ef. 12-16-13 thru 6-13-14

**State Board Higher Education Coordinating Commission Strategic Fund**

The State Board Higher Education Coordinating Commission may establish a strategic fund.

- (1) There are two basic categories for these funds: incentivized statewide initiatives and activities, and requests from individual districts for assistance in meeting new requirements and expectations stemming from legislative change.
- (2) The commissioner will use a committee of stakeholders and department staff to determine overall priorities for funding that considers the State Board Higher Education Coordinating Commission work plan and initiatives.
- (3) Strategic funds provided to incentivize statewide activities or assist community colleges in meeting legislative expectations are provided only for the biennium in which funding is approved. Strategic Funds allocated for either purpose will not be considered in the distribution of funds through the formula described in Section 6 of 589-002-0110 for the current biennium or future biennia.
- (4) Any unused monies remaining in the current biennium's strategic fund will be allocated through the formula described in Section 6 of 589-002-0110 at the end of the biennium.
- (5) The commissioner will review, rank and approve proposals to incentivize statewide activities. After each proposal is approved, the commissioner will provide the State Board Higher Education Coordinating Commission with a report detailing the purpose of the activity, the amount of strategic fund monies approved, and the proposal's merit as assessed under the following parameters:
  - (a) Purpose of the proposal.
  - (b) How the activity supports the initiatives and work plans of the department and the State Board Higher Education Coordinating Commission.
  - (c) How the activity relates to the department's Key Performance Measures or other program-specific measures.
  - (d) If the funding one time (for this biennium) or will additional funding be needed in the future.
  - (e) If future funding is needed, how resources will be obtained and how the activity will be sustainable?
  - (f) The activity's impact on the state three years from now and five years from now.
  - (g) Anticipated changes.
  - (h) How progress will be measured.
- (f) The department will bring all requests for assistance in meeting new requirements or expectations stemming from legislative change to the State Board Higher Education Coordinating Commission for discussion and consideration.
- (g) The department will assess the requests for assistance in meeting new requirements or expectations of the legislature based on the following parameters:
  - (A) Purpose of the proposal.
  - (B) How funds will be used to sustain or increase enrollment (not supplanting existing funds).
  - (C) If the funding is one time (for this biennium) or if additional funding will be needed in the future.
  - (D) If future funding is needed, how those resources will be obtained and how the activity is sustainable.

(E) The impact on the community college three years from now and five years from now.

(F) How progress will be measured.

(h) The department will provide a recommendation and reasoning to the ~~State Board~~ Higher Education Coordinating Commission on whether the request merits funding.

Stat. Auth.: ORS ~~326.054~~ 351.735, 341.015, 341.022, 341.317, 341.440, ~~341.525~~ 341.484, ~~341.528~~ 341.492, 341.626 & 341.665

Stats. Implemented: ORS 341.015, 341.022, 341.317, 341.440, ~~341.525~~ 341.484, ~~341.528~~ 341.492, 341.626 & 341.665

Hist.: DCCWD 1-2012(Temp), f. & cert. ef. 7-17-12 thru 1-10-13; DCCWD 3-2012, f. & cert. ef. 12-26-12; DCCWD 3-2013, f. & cert. ef. 6-11-13

## 589-002-0200

### State Reimbursement and Student Residency

For the purposes of OAR 589-002-0100, Distribution of Community College Support Fund:

(1) "Permanent Residence" is defined as a person's home, to which one intends to return after any absence and in which one's dependents reside for an unlimited period of time. A permanent residence shall be verified by specific documentation. Such documentation may include, but is not limited to, copies of the Oregon Department of Revenue income tax statements; deeds, bills of sale or other papers indicating ownership by the student or a member of his or her family of the dwelling in which he or she resides; appropriate Department of Defense forms indicating that the student took residence in Oregon within one year of being released from active duty in the armed forces; possession of a driver's license issued by the State of Oregon; and evidence indicating that a parent or guardian of a dependent student qualifies as an Oregon resident under this rule.

(2) "Oregon Resident" is defined as a person who currently maintains a permanent residence in the state and whose permanent residence has been maintained in Oregon for no less than ninety continuous days immediately preceding the person's first instructional day of the term (quarter) for which residency is in question.

(3) Pursuant to ORS ~~341.528~~ 341.492, and notwithstanding subsection (2) of this section, students who are residents of Idaho, Washington, California and Nevada and students admitted pursuant to ORS 351.647 shall be considered as residents of Oregon for the purpose of reimbursement.

(4) District policies regarding student residency for state reimbursement purposes may be subject to the periodic review and approval of the ~~State Board of Education~~ Higher Education Coordinating Commission. In the event that approval is not granted, the ~~State Board of Education~~ Higher Education Coordinating Commission may withhold reimbursement.

Stat. Auth: ORS ~~326.051~~ 351.735 & ORS 341.626

Stats. Implemented: ORS 341.290(7), ORS ~~341.505~~ 341.481, ORS ~~341.529~~ 341.496 & ORS 341.626

Hist.: 1EB 9-1979, f. & ef. 6-11-79; EB 12-1991, f. & cert. ef. 7-19-91; Renumbered from 581-043-0260; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0205; DCCWD 1-2003, f. & cert. ef. 1-9-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

589-002-0300

**Advanced Payment to Newly Created Community College District or Service District**

A newly created community college district, or community college service district, shall be assigned by the ~~State Board of Education~~ Higher Education Coordinating Commission a base allocation level for its initial year of operation, based on the projected budget requirements as set in the feasibility study approved by the ~~State Board of Education~~ Higher Education Coordinating Commission. Payments to the new district for its initial year shall be based on the assigned base allocation. From operating funds available to the new district, the Commissioner may advance reasonable sums for organizational expenses. Such an advance may be made only after the new district has formally adopted a budget. An advance will not serve to increase eligibility for state operating funds; it is a partial payment of the sum due the new district from its assigned base allocation in its initial year of operation.

Stat. Auth.: ORS ~~326.051~~ 351.735 & ORS 341.626

Stats. Implemented: ORS 341.626

Hist.: EB 14-1987(Temp), f. & ef. 7-30-87; EB 5-1988, f. & cert. ef. 1-14-88; EB 23-1989(Temp), f. & cert. ef. 6-12-89; EB 33-1989, f. & cert. ef. 11-28-89; EB 12-1991, f. & cert. ef. 7-19-91; Renumbered from 581-043-0266; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0210; DCCWD 1-2003, f. & cert. ef. 1-9-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

**Community College Contracted Services  
(State Reimbursement)**

**589-002-0500**

**Contracts with Agencies, Organizations, and Industries for Which State Reimbursement is Requested**

(1) For the purposes of this rule, the following definitions apply:

(a) "Contract" is defined as an agreement between a community college and an agency, organization, individual, or industry to provide educational services, unless these services are prohibited by the Commissioner or state statute;

(b) "General fund revenue account" is defined as that account which includes all revenues related to the college's basic educational objectives. All revenues not included in some other specific fund accounts are included in the general fund revenue account. All revenues associated with the generation of reimbursable full-time equivalent students are included in the general fund revenue account;

(c) "Special revenue account" is defined as a fund used to account for the proceeds of specific revenue sources (other than special assessments, expendable trusts, or for major capital projects) that are legally restricted to expenditure for specific purposes, including revenues from specific projects, grants, contracted out-of-district programs, restricted federal projects, and other contracts for designated purposes;

(d) "General education purposes" is defined as those purposes directly associated with the college's basic educational objectives.

(2) When community colleges provide educational services through contracts with agencies, organizations, or industries for their clients and employees, the colleges are entitled to compensation for reimbursable costs as defined by the Department and these rules. The community colleges are responsible for maintaining records that justify their requests for reimbursement from the Department.

(3) Full-time equivalent (FTE) attributable to contracts which are accounted for in a college's general fund revenue account can be added to a college's reimbursable full-time equivalent (RFTE) base and are subject to the reimbursement formula in OAR 589-002-0100. Any funds received under the contract from the contracting agency, business, or industry are to be placed into the college's general fund revenue account, or into the college's special revenue account with the Commissioner's approval and must be used for general education purposes.

| Stat. Auth.: ORS ~~326.051~~ 351.735 & ORS 341.626

Stats. Implemented: ORS 341.626

Hist.: 1EB 11-1981, f. 5-6-81, ef. 5-7-81; EB 12-1991, f. & cert. ef. 7-19-91; Renumbered from 581-043-0255; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0220; DCCWD 1-2003, f. & cert. ef. 1-9-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

**589-002-0600**

**Access by Unserved Areas to Community College Services; and Procedures for Contracted Out-of-District Areas**

(1) For the purposes of this rule:

(a) "Nondistrict area" is defined as any geographic area of the state not within a community college district or community college service district;

(b) "Nondistrict student tuition" means tuition paid by residents of the nondistrict area;

(c) "Other nondistrict resources" means gifts, contributions, or grants from individuals, groups, organizations, businesses or industries. It may include financial support from school districts, education service districts, municipalities, counties or another public agency or private organization.

(2) Nothing in this rule is intended to refer to programs provided through contracts between community colleges and state correctional facilities. Those contracts are addressed in OAR 589-002-0700.

(3) Nothing in this rule is intended to refer to programs provided specifically for apprentices, including apprenticeship services as authorized in ORS 660.157(3). Those programs are addressed in division ~~44~~7, chapter 589, of the Oregon Administrative Rules.

(4) The Department shall determine that sufficient interest exists in a nondistrict area for the formation of a local advisory committee to analyze and advocate community college services when it receives a petition signed by a minimum of 100 persons, or by five percent of the electors registered in each county or part of a county within the designated service area, whichever is less. The Department may ask the county clerk to verify valid petition signatures:

(a) The Department shall furnish the petition form and provide advice to the chief petitioner;

(b) In the event that more than one person seeks chief petitioner status, the Department shall select the party that, in its judgment, can best represent the diverse interests within the nondistrict area.

(5) Upon receipt of the petition, the Department and the chief petitioner shall jointly apply to the county governing body for the appointment of a local advisory committee. The application shall include the names of at least ten nominees agreed to by the Department and the chief petitioner along with brief statements as to the reasons they seek appointment.

(6) Upon application, the governing body of the county shall appoint a local advisory committee and shall insure that the committee is broadly representative of the nondistrict area.

(7) The advisory committee shall:

(a) Examine the educational needs of the residents;

(b) Identify financial and human resources necessary to meet the educational needs;

(c) Identify entities willing to contract with the community college provider;

(d) Promote the community college services desired;

(e) Periodically advise and consult with the designated staff of the contracting community college and the Department regarding services requested and provided; and



(f) Submit biennial evaluation reports to the county governing board, the Department, and the contracting community college. The Department may, at its discretion, require more frequent evaluation reports.

(8) Community college districts and community college service districts may submit proposals to the Department, to become service providers to a nondistrict area:

(a) The proposal shall address information sent by the Department to the colleges describing the boundaries of the nondistrict, the population base, and the services requested;

(b) The college district shall define the elements of its proposed contract including orientation, inservice, materials, recommended tuition and fees, registration and reporting procedures, transcription, advising, timelines, supervision, and budget;

(c) The Department shall select that college that, in its judgment, can best deliver the services requested:

(A) The Department shall make its judgment after considering geographic factors, prior service history, and local advisory committee preference;

(B) The community college district or community college service district selected to be the contractor shall enter into an agreement with the contracting entity;

(C) The agreement is subject to the approval of the ~~State Board~~ Higher Education Coordinating Commission or its designee.

(9) The contract between the community college and the local contracting entity must include an annual budget setting forth both revenue and expenditures for services provided to the nondistrict area. The budget shall be based on the following conditions:

(a) The budget must be wholly supported by state funds, nondistrict student tuition, and other nondistrict resources;

(b) While the budget may contain some in-kind contribution from the nondistrict area, a cash contribution, exclusive of tuition, is required.

(10) State reimbursement of costs incurred in providing services subject to the contract will be made based on the formula described in OAR 589-002-0100. Contracts shall not imply any requirement on the part of the state for reimbursement beyond the amounts appropriated for such purposes or beyond the biennial period covered by any such appropriation.

(11) Nondistrict areas operating under contract to a community college district will be eligible for federal Adult Basic Education funds based on the distribution method described in the State Plan for Adult Education and adopted by the ~~State Board~~ Higher Education Coordinating Commission.

(12) The cost of education (tuition and fees) to residents of the nondistrict shall be sufficiently low to enable students of low and middle income to attend.

(13) The local nondistrict financial effort shall be in cash:

(a) The contracting entities may exercise the option of increasing local effort in order to reduce tuition costs to students;

(b) The minimum cash contribution that will be required in the budget shall be determined in the following manner:

(A) For the initial contract year, not less than ten percent of the budgeted expenditures must be supported by a cash contribution;

(B) For the second contract year not less than 15 percent of the budgeted expenditures must be supported by a cash contribution;

(C) For the third contract year, and all subsequent years, not less than 20 percent of the budgeted expenditures must be supported by a cash contribution.

(c) Upon request from the college providing the contracted services, the Commissioner may recommend to the ~~State Board~~ Higher Education Coordinating Commission a waiver or renegotiation of all or a portion of the matching requirement;

(d) A nondistrict area that contracts for not more than 12 FTE annually shall be subject to a separate cash contribution standard:

(A) Such areas may enter into contracts that provide for no cash contribution for the first three years of service;

(B) For the fourth, and all subsequent years, the cash contribution shall be ten percent of the budgeted expenditures.

(e) Cash may be from any source except that which is prohibited by rule or regulation.

(14) Contracts are subject to the review and approval of the Department:

(a) Contracts may be for one or two years and are renewable. Two-year contracts are subject to annual budget review and possible adjustment by the Department. The Department can choose to entertain bids from other potential contractors in the course of this review;

(b) Contracts will be submitted to the Department by July 1 of the contract year. The Department will determine that the contracting entity has met the cash requirement, that state-approved courses are offered, and that the district providing services provides adequate supervision of the contract;

(c) The Department will evaluate contracted out-of-district services biennially and submit a report to the ~~State Board~~ Higher Education Coordinating Commission by May of even-numbered years. The evaluation will include number of individuals served, types of instructional services offered, extent to which the interest and needs of each area have been met, financial effort of each area, and projected service in the next biennium.

(15) The community college districts are responsible for developing the form of the contractual agreements and the method for recording them.

Stat. Auth.: ORS ~~326.051~~ 351.735 & ORS 341.024

Stats. Implemented: ORS 341.019, ORS 341.021, ORS 341.022 & ORS 341.024

Hist.: 1EB 178, f. 10-18-74, ef. 11-11-74; 1EB 205, f. 8-20-75, ef. 9-11-75; 1EB 15-1985, f. 7-3-85, ef. 7-5-85; 1EB 178, f. 10-18-74, ef. 11-11-74; EB 21-1987(Temp), f. & ef. 10-7-87; EB 16-1988, f. & cert. ef. 3-15-88; EB 17-1988, f. & cert. ef. 3-15-88; EB 13-1991, f. & cert. ef. 7-19-91; Renumbered from 581-043-0240 & 581-043-0250; EB 14-1992, f. & cert. ef. 5-13-92; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-042-0400; DCCWD 1-2003, f. & cert. ef. 1-9-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

### Community College Services for Inmates of State Penitentiary and Correctional Institutions

(1) Community colleges and the Department may contract with the Department of Corrections for instructional services to inmates of any Department-operated correctional facilities.

(2) Any contract between the Department and the Department of Corrections (State Contract) may include agreements relating to all statewide staff training and development, program transferability between correctional institutions, curriculum planning, instructional support, evaluation and assessment, instruction of the persons with disabilities, employee relations, and the range of administrative allowances.

(3) Contracts between a provider community college and an individual correctional institution (Local Contracts) shall include agreements relating to specific administrative allowances, financial aid administration, program mix, staffing and budget:

(a) Each Local Contract shall indicate as its primary objective a functional literacy program; and as its secondary objective professional and technical education that provides entry-level, marketable skills;

(b) State reimbursement of costs incurred in providing services subject to the Local Contracts will be made based on the formula described in OAR 589-002-0100. Contracts shall not imply any requirement on the part of the state for reimbursement beyond the amounts appropriated for such purposes or beyond the biennial period covered by any such appropriation;

(c) Local Contracts will be eligible for federal Adult Basic Education funds based on the distribution method described in the State Plan for Adult Education and adopted by the ~~State Board of Education~~ Higher Education Coordinating Commission.

(4) All local contracts are subject to prior approval by the Department and must be submitted prior to August 1 of each year, unless the contract is for a biennial period in which the contract must be submitted prior to August 1 of the biennial year.

(5) The Department will advise the Department of Corrections and colleges annually of adjustments in the allocation of funds appropriated for services in correctional institutions.

(6) The ~~State Board of Education~~ Higher Education Coordinating Commission shall review services to correctional institutions at least once biennially. To facilitate this review and approval, Department shall evaluate the contracts with the Department of Corrections biennially and submit a report to the ~~State Board of Education~~ Higher Education Coordinating Commission by May 1 of even-numbered years. The evaluation shall include the number of individuals served, types of instructional services offered, extent to which the interest and needs of inmates have been met, financial effort, and projected service in the next biennium.

Stat. Auth.: ORS ~~326.051~~ 351.735 & ORS 341.626

Stats. Implemented: ORS 341.317

Hist.: EB 27-1987, f. & ef. 11-17-87; EB 13-1991, f. & cert. ef. 7-19-91; Renumbered from 581-043-0251; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-042-0500; DCCWD 1-2003, f. & cert. ef. 1-9-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

### Audit Procedures, Adjustments and Appeals

(1) Notwithstanding the required financial audit required under the Single Audit Act of 1984, P.L. 98-502, the Department and the ~~State Board of Education~~ Higher Education Coordinating Commission have a statutory duty to manage public funds in a prudent manner. This duty includes the responsibility to take reasonable action to correct errors and to prevent the unauthorized use of public funds through the use of periodic audits.

(2) The Department may perform periodic on-site financial, performance and/or statistical audits of community colleges, community college service districts, other grantees, and contractors. The audits shall be conducted to determine compliance with applicable statutes and administrative rules, instructions, and grant and contract terms.

(3) Requests for audits may come from the ~~State Board of Education~~ Higher Education Coordinating Commission, the Department, community colleges, contractors, or private citizens. Requests from anyone outside the Department must be routed through the Assistant Commissioner, be recommended by the Commissioner, and approved by the ~~State Board of Education~~ Higher Education Coordinating Commission.

(4) The audit is to be performed by a person or persons with adequate technical training and proficiency as an auditor.

(5) The Auditor shall prepare a draft report of the audit and forward it to the audited agency with a letter of explanation. The letter will explain alternatives available to the agency in responding to the draft report. The audited agency's responses shall be forwarded within 60 days to the Auditor for evaluation in preparing the final audit report unless an alternative timeline is mutually agreed upon.

(6) After considering the responses, if any, from the agency on the draft audit report, the Auditor will prepare a final audit report. The Commissioner shall forward by letter the final audit report to the audited agency.

(7) Any exceptions involving overclaims (overpayments) or underclaims (underpayments) may be processed as follows unless the Commissioner agrees to an alternative method of adjustment:

(a) Overclaims: The agency will have the option of remitting the excess claim or reducing accordingly the subsequent year's entitlement;

(b) Underclaims: The subsequent year's claim may be adjusted by the amount underclaimed.

(8) The Auditor shall forward audit reports involving overpayment or underpayment to the Commissioner and to the audited agency.

(9) If the audited agency disputes the Department's determination of an audit exception, the audited agency may appeal to the ~~State Board of Education~~ Higher Education Coordinating Commission in the manner provided for a contested case under ORS 183.413 to 183.470. During an appeal, no action will be taken by the Department to effect reimbursement until a decision on the audit under appeal has been reached.

Stat. Auth.: ORS ~~326.054~~ 351.735, ORS 341.015 & ORS 341.626

Stats. Implemented: ORS 291.200, ORS 341.015 & ORS 341.626;

Hist.: EB 12-1991, f. & cert. ef. 7-19-91; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0240; DCCWD 1-2003, f. & cert. ef. 1-9-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

## 589-002-0900

### Reporting Requirements

(1) Colleges are required to submit, on or before January 30 of each year, reports of the revenues and expenditures, classified according to the format supplied by the Department.

(2) Colleges are required to submit enrollment reports for fourth week estimates by Friday of the fifth week of each term, and a term-end enrollment report by Friday of the sixth week following the close of each term. If reports are outstanding at the time of the quarterly payments, payment to the college(s) not reporting may be delayed at the discretion of the Commissioner.

(3) Colleges are required to submit to the Department one copy of their final audits no later than January 2 of each year following the year for which the audits are conducted.

(4) Rules governing the classification of revenue and expenditure accounts for community colleges are contained in the *Community College Accounting Manual* published by the Department (latest edition). Budget documents and audit reports will conform to these rules. The ~~State Board~~ Higher Education Coordinating Commission adopts this publication to fulfill its responsibilities by reference as set forth in ORS ~~294.352 294.388~~ 294.356 294.393.

[Publications: The publication(s) referenced in this rule are available from the agency.]

Stat. Auth.: ORS ~~294.352 294.388~~, ORS 341.015 & ORS 341.626

Stats. Implemented: ORS ~~294.352 294.388~~, ORS ~~294.356 294.393~~, ORS 341.626 & ORS 341.709

Hist.: 1EB 5-1982, f. & ef. 2-10-82; EB 10-1987, f. & ef. 5-12-87; EB 14-1987(Temp), f. & ef. 7-30-87; EB 5-1988, f. & cert. ef. 1-14-88; EB 23-1989(Temp), f. & cert. ef. 6-12-89; EB 33-1989, f. & cert. ef. 11-28-89; EB 12-1991, f. & cert. ef. 7-19-91; Renumbered from 581-043-0265 & 581-043-0266; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0250

## Community College Capital Construction and Acquisition

(1) For the purposes of this rule, the following definitions apply:

(a) "Capital construction and acquisition" is defined as new construction, the purchase of existing buildings, remodeling, maintenance, equipment and Americans with Disabilities Act (ADA) projects;

(b) "New construction" is defined as the building of a new facility within the community college district or some significant addition to an existing facility;

(c) "Remodeling" is defined as the renovation, restoration, or repair of an existing college district facility, the result of which places the facility in a position to provide increased access for persons who are disabled, to accommodate new uses, or house expanded activities;

(d) "Maintenance" is defined as the renovation, restoration, repair, or replacement of any college district facilities system, or component part of such a system. Maintenance is distinguished from remodeling by the fact that it does not add to the value of the property or prolong the life of the property, but merely keeps the property in an operating condition over the useful life for which the property was acquired. Facilities systems include, but are not limited to, water systems, sewer and drainage systems, HVAC systems, light systems, road systems, electrical systems, carpets, floors, roofs, walkways, and parking lots;

(e) "Equipment" is defined as tangible personal property of a non-consumable nature, with a useful life of more than one year and a cost exceeding a dollar amount to be specified by the Department;

(f) ADA projects is defined as new construction, remodeling, maintenance or equipment needed to meet the requirements of the American with Disabilities Act as defined in Public Law 101-336;

(g) "Eligible Projects" is defined as any construction, remodeling, maintenance, ADA project, or equipment request not prohibited by state statute or administrative rule. ORS 341.933(1) prohibits the use of state funds for the construction of student or faculty housing, facilities for spectators at athletic events, recreational facilities, student health facilities, and noninstructional portions of student centers; and

(h) "Instructional Purpose" is defined as those activities that directly support classroom, shop, or laboratory teaching, basic skills teaching, customized training, tutoring, student testing and assessment, student advising or counseling, and library services.

(2) Colleges shall prepare five-year capital plans documenting their new construction, remodeling, maintenance, equipment and ADA project needs, and the projected costs of meeting these needs. These plans shall be updated every two years. After consulting with college officials, the Commissioner or the Commissioner's designee shall prescribe forms and timelines for this planning process.

(3) The ~~State Board of Education~~ Higher Education Coordinating Commission shall rely upon the submitted capital plans for the development of capital construction requests made to the Department of Administrative Services and Legislature. The ~~State Board of Education~~ Higher Education Coordinating Commission shall approve all capital construction requests prior to submission to the Department of Administrative Services or Legislature.

(4) Unless directed otherwise by the Department of Administrative Services or the Legislature, the ~~State Board of Education's~~ Higher Education Coordinating Commission's new construction requests, remodeling requests, maintenance and equipment requests, and ADA projects that are new construction or remodeling projects as a package of prioritized eligible projects. Colleges shall have a right of appeal to the ~~State Board~~ Higher Education Coordinating Commission before the new priorities are finally established.

(5) In its final budget request for new construction, remodeling, maintenance, equipment, and ADA projects, provided that the district has submitted an appropriate capital plan. Further, the ~~State Board of Education~~ Higher Education

Coordinating Commission shall list these projects in priority order and assign higher relative rank to those projects that:

- (a) Clearly serve an instructional purpose (first priority);
- (b) Clearly meet an important demonstrated service need of the college (second priority);
- (c) Clearly meet a facilities need that cannot be adequately addressed through alternative, interim, or existing facilities (third priority);
- (d) Clearly serve to complete a comprehensive community college facility (fourth priority);
- (e) Clearly meet an important and articulated objective of the college (fifth priority); and
- (f) Clearly reflect evidence of local planning and needs assessment (sixth priority).

(6) Pursuant to ORS 341.937, and notwithstanding section (5) of this rule, the ~~State Board of Education- Higher Education Coordinating Commission~~ shall include amounts for capital improvements in its budget request for each biennium that will be applied to the substantial reduction and eventual elimination of barriers to access by disabled persons. These capital improvements may include, but are not limited to, ADA projects. The ~~State Board of Education- Higher Education Coordinating Commission~~ shall identify the projects as separate items on the list of capital construction projects that it submits to the Executive Branch or Legislature. The inclusion of the budget requests for these projects shall be made after consultation with the community colleges and their representatives of the disabled community at the colleges. The ~~State Board of Education- Higher Education Coordinating Commission~~ may also include these projects on the prioritized list of projects referenced in section (5) of this rule.

(7) New construction, remodeling, and ADA projects that include new construction, maintenance, or remodeling shall be subject to the following special considerations:

- (a) The cost of necessary initial equipment for a new or remodeled facility shall be an allowable expense within a new construction, remodeling or ADA project request;
- (b) The acquisition of an existing facility shall be deemed a capital construction project within the meaning of this rule;
- (c) The costs of acquiring land shall not be an allowable expense within a capital construction request in those cases where the capital construction project involves the acquisition of an existing facility. In those cases, the attendant land must represent the smallest practical parcel of land that will serve the acquired facility;
- (d) Property subject to a leasehold interest by the college shall be eligible for remodeling funds provided the leasehold extends for at least five years beyond the date of any stated funded improvements;
- (e) The value of district employee labor may be included as part of the district match requirement set out in section (9) of this rule provided:
  - (A) Accurate records are maintained to document the value of the contributed labor;
  - (B) Prevailing wage, licensing, and other applicable laws are observed;
  - (C) The contributed labor directly, and exclusively, serves the subject project for the claimed period; and
  - (D) The contributed labor involves work that is traditionally associated with the building trades.
- (f) New construction projects must affect facilities within the boundaries of the requesting district. Remodeling projects in areas served under an existing contracted-out-of-district agreement shall be eligible projects provided such projects otherwise qualify under this rule.

(8) In addition to requests for new construction, remodeling and ADA project funds, the ~~State Board of Education Higher Education Coordinating Commission~~ may make requests to the Department of Administrative Services and the Legislature for equipment purchases. The ~~State Board Higher Education Coordinating Commission~~ shall rely upon the submitted five-year capital plans for the development of such requests. The ~~State Board Higher Education Coordinating Commission~~ shall consult with college officials prior to developing any proposed ~~distribution- distribution~~ methods for equipment funds. The ~~State Board Higher Education Coordinating Commission~~ shall not request state funds for equipment purchases that would support programs associated with those ineligible facilities listed in ORS 341.933(1).

(9) ~~State Board of Education Higher Education Coordinating Commission~~ requests for state funds for capital construction projects shall not be less than 65 percent of the total cost for each project or purchase, unless a lesser percentage is established by the Commissioner after consulting with the requesting college. The remaining amount of the total cost must come from tuition, local property tax revenues, bond issues, gifts, grants, or other sources. A community college district must provide an accounting of all funds expended for any project or purchase subject to this rule. The Commissioner shall prescribe an appropriate accounting method.

(10) The board of a community college district applying for state funds appropriated for new construction, remodeling, maintenance, or ADA new construction or remodeling project purposes shall submit plans of the proposed project to the Commissioner prior to receiving any appropriation for such project. These plans shall include pertinent construction or remodeling documents and cost estimates. Upon approval of the project plans by the Commissioner, and any legislatively designated body, the district may proceed to obtain bids and award construction or remodeling contracts.

(11) Notwithstanding section (12) of this rule, the Commissioner may waive the requirement that such plans be submitted if in the Commissioner's judgment the cost of developing such plans represents an unreasonable overextension of the college's resources. In such cases, the college will submit reasonable estimates.

(12) Upon award of the new construction, remodeling or ADA project funding, the Commissioner shall set aside those state funds appropriated for the project. The Department shall distribute project funds to the district in periodic payments related to the progress of construction or remodeling as determined by the Commissioner. The amount paid to the district may not exceed:

(a) The state share of the capital construction and acquisition costs; or

(b) The amount appropriated for capital construction and acquisition costs, whichever is less.

(13) If, prior to completion of the capital construction and acquisition project, it is found necessary or desirable to substantially modify the contract or specifications covering construction or remodeling, the district must submit such modifications to the Commissioner for approval.

(14) The community college district shall submit such records and reports during the construction or remodeling period and after completion thereof as the Commissioner may require.

(15) The board of a community college district applying for state funds appropriated for equipment purchases shall prepare detailed descriptions of the purchases or projects. These descriptions shall be submitted to the Commissioner along with pertinent specifications and cost estimates. Upon approval of the descriptions by the Commissioner, and any legislatively designated body, the district may proceed to obtain bids and award contracts.

(16) Upon award of the grant to the college, the Commissioner shall set aside those state funds appropriated for the equipment purchases. The Department shall distribute the equipment funds to the district on a schedule to be determined by the Commissioner after consulting with the affected district. The amount paid to the district may not exceed:

(a) The state share of the equipment costs; or

(b) The amount appropriated for the equipment costs, whichever is less.



(17) If, at any time, it is found necessary or desirable to modify substantially a planned equipment purchase, the district must submit such modifications to the Commissioner for approval.

(18) The community college district shall submit such records and reports during and after the equipment purchase as the Commissioner may require.

(19) Title to any real and/or personal property items acquired under this rule is vested with the individual college receiving state funding at the time the college acquires the real and personal property.

| Stat. Auth.: ORS ~~294.356~~ 294.393, ORS ~~326.054~~ 351.735 & ORS 341.933

Stats. Implemented: ORS 341.933 & ORS 341.937

Hist.: 1 EB 25-1986, f. & ef. 7-17-86; EB 13-1987(Temp), f. & ef. 7-30-87; EB 4-1988, f. & cert. ef. 1-14-88; EB 21-1989, f. & cert. ef. 5-17-89; EB 12-1991, f. & cert. ef. 7-19-91; Renumbered from 581-041-0040; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0230; DCCWD 1-2003, f. & cert. ef. 1-9-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

## 589-004-0100

### Definitions

As used in OAR 589-004-0100 through 589-004-0750, the following definitions apply:

(1) "Directory Information" means information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. Directory information may include, but is not limited to, the student's name, address, telephone number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational institution attended. Each college shall determine what information is designated "directory information."

(2) "Disclosure" means to permit access to or the release, transfer, or other communication of education records, or the personally identifiable information contained in those records, including social security number, to any party, by any means, including oral, written, or electronic means.

(3) "Education Records":

(a) The term means those records that are directly related to a student and maintained by a community college or by a party acting for the community college;

(b) The term does not include:

(A) Records of instructional, supervisory and administrative personnel and educational personnel ancillary to those persons that are kept in the sole possession of the maker of the record, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;

(B) Records of a law enforcement unit of a community college;

(C) Records relating to an individual who is employed by a community college, that are made and maintained in the normal course of business, that relate exclusively to the individual in that individual's capacity as an employee and that are not available for use for any other purposes. Records relating to an individual in attendance at the college who is employed as a result of his or her status as a student are education records and are not excepted under this subsection;

(D) Faculty records, relating to personal matters of faculty members such as conduct, personal and academic evaluations, and disciplinary actions;

(E) Records on a student who is attending a community college that are:

(i) Made or maintained by a physician, psychiatrist, psychologist or other recognized professional or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;

(ii) Made, maintained, or used only in connection with treatment of the student; and

(iii) Disclosed only to individuals providing the treatment. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the college.

(F) Records that only contain information relating to activities in which an individual engaged after he or she is no longer a student at that community college;

(G) Medical or nursing records which are made or maintained separately and solely by a licensed health care professional and which are not used for education purposes or planning.

(4) "Oregon Community College Unified Reporting System (OCCURS)" describes an informal consortium of community colleges, the Department of Community Colleges and Workforce Development and the Oregon Community College Association, acting together to provide standard data and reporting formats necessary to improve community college programs, evaluate program effectiveness, and report to various governing bodies and agencies. OCCURS staff and committees acting in support of OCCURS are agents of the consortium members for the purposes of OAR 589-004-0150 through 589-004-0750.

(5) "Party" means an individual, agency, institution, or organization.

(6) "Personally Identifiable Information" includes, but is not limited to:

(a) The student's name;

(b) The name of the student's parent, children, spouse or other family members;

(c) The address of the student or the student's family;

(d) The telephone number of the student or the student's family;

(e) A photograph of the student;

(f) A personal identifier, such as the student's social security number or student number;

(g) A list of personal characteristics that would make the student's identity easily traceable; or

(h) Other information that would make the student's identity easily traceable.

(7) "Record" means any information recorded in any way, including but not limited to handwritten, printed, taped, filmed, microfilmed, microfiched, electronically and/or digitally recorded.

(8) "Student" means any individual who is or has been in attendance at an Oregon community college and regarding whom the college maintains education records.

| Stat. Auth.: ORS ~~326.054~~ 351.735, ORS 341.015 & ORS 341.290(17)

Stats. Implemented: ORS 341.290

Hist.: EB 7-1994, f. & cert. ef. 4-29-94; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0410

## **589-004-0150**

### **Applicability of Student Record Rules**

OAR 589-004-0150 through 589-004-0750 apply to records of students enrolled in Oregon community colleges, including students who have not reached 18 years of age.

| Stat. Auth.: ORS ~~326.015~~ 351.735, ORS 341.105 & ORS 341.290(17)

Stats. Implemented: ORS 341.290

Hist.: EB 7-1994, f. & cert. ef. 4-29-94; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0400

## **589-004-0200**

### **Student Record Policies to be Adopted by a Community College Board of Education**

(1) Each community college shall adopt a policy regarding how the college meets the requirements of OAR 589-004-0150 through 589-004-0750. The policy shall include:

- (a) How the agency or institution informs students of their rights, in accordance with these rules;
- (b) How a student may inspect and review education records under OAR 589-004-0250, including at least:
  - (A) The procedure the student must follow to inspect and review the records;
  - (B) With an understanding that it may not deny access to education records, a description of the circumstances in which the agency or institution believes it has a legitimate cause to deny a request for a copy of those records;
  - (C) A schedule of fees, if any, to be charged for copies; and
  - (D) A list of the types and locations of education records maintained by the agency or institution, and the titles and addresses of the officials responsible for the records.
- (c) How a college notifies students about information requirements, including the use of social security numbers, in relation to the extension of credit in the form of student loans and deferred tuition payments in accordance with OAR 589-004-0400(6);
- (d) A statement that personally identifiable information will not be released from an education record without the prior consent of the student, except under one or more of the conditions described in OAR 589-004-0500;
- (e) A statement indicating whether the community college has a policy of disclosing personally identifiable information under OAR 589-004-0500, and if so, a specification of the criteria for determining which parties are education officials and what the college considers to be a legitimate educational interest;
- (f) A statement that a record of disclosures will be maintained as required by OAR 589-004-0750, and that a student may inspect and review that record;
- (g) A specification of the types of personally identifiable information the college has designated as directory information;
- (h) A statement that the college permits a student to request correction of the student's educational records and to amend that record under OAR 589-004-0250, and to obtain a hearing under OAR 589-004-0350;
- (i) A statement regarding the college's policy on maintaining permanent records on students. Permanent records may, but need not, include the:
  - (A) Name of college;
  - (B) Full name of student;
  - (C) Student birth date;
  - (D) Date of entry into the college;
  - (E) Name of school or college previously attended;
  - (F) Subjects taken;

(G) Assessment of student work in those subjects;

(H) Credits earned;

(I) Date of withdrawal from college;

(J) Social security number, subject to subsection (1)(i) of this rule and OAR 589-004-0400; and

(K) Such additional information as the college may prescribe;

(j) A statement that the college will request the social security number of a student and will include the social security number on the permanent student record only if the student agrees to the request, under conditions described in OAR 589-004-0400;

(k) A statement that the college provides for the retention of permanent records in a manner secure from accidental destruction or intentional tampering;

(l) A statement that the college maintains records of disclosure of student information in accordance with OAR 589-004-0750; and

(m) A statement that upon receipt of a request for the transfer of education records from another school or institution of postsecondary education where the student intends to enroll, the college shall:

(A) Make a reasonable effort to notify the student at the student's last known address, unless the disclosure was either initiated by the student or the college has a policy that includes a notice as prescribed under subsection (a) of this section that the college will forward education records without prior notice to another school or institution of postsecondary education where the student intends to enroll; and

(B) Give the student, upon request, a copy of the records as provided under OAR 589-004-0250 and the opportunity to request a hearing as provided under OAR 589-004-0350.

(2) Each community college shall adopt a policy regarding the disclosure of directory information.

(3) A college may disclose directory information if it has given public notice to students in attendance at the college of:

(a) The types of personally identifiable information that the college has designated as directory information;

(b) A student's right to refuse to let the college designate any or all of those types of information about the student as directory information; and

(c) The period of time within which a student has to notify the college in writing that he or she does not want any or all of those types of information about the student designated as directory information.

(4) A college may disclose directory information about former students without meeting the conditions in section (3) of this rule.

(5) The policy shall be adopted by the college's Board of Education, and a copy shall be available on request to students.

| Stat. Auth.: ORS ~~326.051~~ 351.735, ORS 341.015 & ORS 341.290(17)

Stats. Implemented: ORS 341.290

Hist.: EB 7-1994, f. & cert. ef. 4-29-94; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0420

## 589-004-0250

### Rights of Inspection, Review, and Amendment

- (1) Except as limited under section (7) of this rule, each college shall permit a student to inspect and review the education records of that student.
- (2) The college shall comply with a request for access to records within a reasonable period of time, but in no case more than 45 days after it has received the request.
- (3) The college shall respond to reasonable requests for explanations and interpretations of the records.
- (4) If a student so requests, the college shall give the student a copy of the student's education records pursuant to ORS 192.440, except that no copy of test protocols, test questions and answers, and other documents described in ORS 192.501(4) shall be provided unless required by federal law.
- (5) The college shall not destroy any education records if there is an outstanding request to inspect and review the records under this section.
- (6) While a college is not required to give a student access to treatment records under the definition of "education records" in OAR 589-004-0100(3)(b)(E), the student may, at his or her expense, have those records reviewed by a physician or other appropriate professional of the student's choice.
- (7) If the education records of a student contain information on more than one student, the student may inspect, review or be informed of only the specific information about that student.
- (8) A college does not have to permit a student to inspect and review the following records:
  - (a) Financial records of the student's parents;
  - (b) Confidential letters and statements of recommendation if the student has waived his or her right to inspect the letters and statements under the procedure in 34 CFR, Section 99.12(b)(3).
- (9) If a student believes the education records relating to the student contain information that is inaccurate, misleading, or in violation of the student's rights of privacy or other rights, he or she may ask the college to amend the record.
- (10) The college shall decide whether to amend the record as requested within a reasonable time after the college receives the request.
- (11) If the college decides not to amend the record as requested, it shall inform the student of its decision and of his or her right to a hearing under OAR 589-004-0350.

[Publications: The publication(s) referenced in this rule is available from the agency.]

Stat. Auth.: ORS ~~326.051~~ 351.735, ORS 341.015 & ORS 341.290(17)

Stats. Implemented: ORS 192.440, ORS 192.501(4) & ORS 341.290

Hist.: EB 7-1994, f. & cert. ef. 4-29-94; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0430

## 589-004-0300

### Fees for Copies of Education Records

- (1) Educational records are public records under ORS 192.410 through 192.505 for purposes of charging fees.
- (2) Unless the imposition of a fee effectively prevents a student from exercising the right to inspect and review the student's education records, a college may charge a fee for a copy of an educational record that is made for the student subject to section (3) of this rule.
- (3) Notwithstanding ORS 192.440(3), a college may not charge the student a fee to search for or to retrieve the education records of the student. Such fees may be charged to persons who are not students, including persons seeking education records pursuant to a subpoena.

| Stat. Auth.: ORS ~~326.054~~ 351.735, ORS 341.015 & ORS 341.290(17)

Stats. Implemented: ORS 192.440; ORS 341.290

Hist.: EB 7-1994, f. & cert. ef. 4-29-94; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0440



### Right to a Hearing to Challenge Content and Conduct of a Hearing

(1) A college shall give a student, on request, an opportunity for a hearing to challenge the content of the student's education records on the grounds that the information contained in the education records is inaccurate, misleading, or in violation of the privacy or other rights of the student.

(2) If, as a result of the hearing, the college decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall:

(a) Amend the record accordingly; and

(b) Inform the student of the amendment in writing.

(3) If, as a result of the hearing, the college decides that the information in the education record is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall inform the student of the right to place a statement in the hearing record commenting on the contested information in the record or stating why he or she disagrees with the decision of the college, or both.

(4) If a college places a statement in the record of the hearing under section (3) of this rule, the college shall:

(a) Maintain the statement with the contested part of the record for as long as the record is maintained; and

(b) Disclose the statement whenever it discloses the portion of the record to which the statement relates;

(c) Electronic student records shall be flagged to indicate a contested case hearing record exists.

(5) The hearing required by section (1) of this rule must meet at a minimum the following requirements:

(a) The college shall hold the hearing within a reasonable time after it has received the request for the hearing from the student;

(b) The college shall give the student notice of the date, time, and place reasonably in advance of the hearing;

(c) The hearing may be conducted by any individual, including an official of the college, who does not have a direct interest in the outcome of the hearing;

(d) The college shall give the student a full and fair opportunity to present evidence relevant to the issues raised under this rule. The student may, at his or her own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney;

(e) The college shall make its decision in writing within a reasonable period of time after the hearing;

(f) The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.

| Stat. Auth.: ORS ~~326.054~~ 351.735, ORS 341.015 & ORS 341.290(17)

Stats. Implemented: ORS 341.290

Hist.: EB 7-1994, f. & cert. ef. 4-29-94; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0450

## 589-004-0400

### Student Release of Social Security Numbers

(1) Community colleges are required to request that students release their social security numbers for the purposes of record-keeping and research. The request made to the student shall notify the student that:

(a) Release of the social security number is voluntary;

(b) Request for release is made under the authority of ORS 341.290(17); and

(c) Specific uses will be made of the social security number. Those specific uses must be described in the notification.

(2) The request to a student to release his or her social security number shall conform to forms and/or procedures developed and published by the ~~State Board Higher Education Coordinating Commission~~. Any alteration by a college in the wording or procedure must be approved by the Commissioner or designee under the authority of the ~~State Board Higher Education Coordinating Commission~~. The ~~State Board Higher Education Coordinating Commission~~ may revise the wording only with a minimum of 90 days' notice to the colleges and only with the input of the colleges.

(3) If a college determines that it needs to use the social security number for a purpose other than those described on the disclosure form, the college may add that use its disclosure form. The additional wording must be approved by the Commissioner or designee before it is added to the disclosure statement.

(4) Under no circumstances may a college require a student to release his or her social security number unless the release is specifically mandated by federal law (as in federal financial aid law and payroll requirements).

(5) A college may not deny any student any right, benefit or privilege provided by law because of the student's refusal to disclose his or her social security account number. However, this provision does not apply with respect to any disclosure that is mandated by federal law.

(6) If a student refuses to release his or her social security number, the college may assign an alternative student identification number. Such a number is personally identifiable information as defined in OAR 589-004-0100(6) and is governed by disclosure requirements set forth in OAR 589-004-0450.

(7) A college that extends credit in the form of student loans or deferred tuition payments may request that the student voluntarily provide his or her social security number through a disclosure form separate from the form described in section (2) of this rule. Any such form shall be approved by the Commissioner or designee prior to implementation.

Stat. Auth.: ORS ~~326.051~~ 351.735, ORS 341.015 & ORS 341.290(17)

Stats. Implemented: ORS 341.290 & Family Educational Rights and Privacy Act of 1974

Hist.: EB 7-1994, f. & cert. ef. 4-29-94; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0460

## 589-004-0450

### Prior Consent to Disclose Information

(1) The student shall provide written consent before a college discloses personally identifiable information from the student's education records, except as provided in OAR 589-004-0500, and in accordance with the college's policy adopted under OAR 589-004-0200(1)(d).

(2) The consent must:

(a) Specify the records that may be disclosed;

(b) State the purpose of the disclosure; and

(c) Identify the party or class of parties to whom the disclosure may be made.

(3) When a disclosure is made under section (1) of this rule, if the student so requests, the college shall provide him or her with a copy of the records disclosed. "Records disclosed" may consist of a list of data elements included in OCCURS records.

(4) A record of consent shall be maintained for as long as the individual's records are maintained.

| Stat. Auth.: ORS ~~326.054~~ 351.735; ORS 341.015; ORS 341.290(17)

Stats. Implemented: ORS 341.290

Hist.: EB 7-1994, f. & cert. ef. 4-29-94; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0470

## **589-004-0500**

### **Exceptions to Prior Consent Requirement**

A college may disclose personally identifiable information from an education record of a student without the consent required by OAR 589-004-0450 if the disclosure meets one or more of the following conditions:

(1) The disclosure is to other school officials, including teachers, athletic directors, coaches and counselors within the college who have legitimate educational interests in the records.

(2) The disclosure is, subject to the requirements of OAR 589-004-0200(1)(m), to officials of another school, school system or institution of postsecondary education where the student seeks or intends to enroll.

(3)(a) The disclosure is for the purposes of an audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal or state legal requirements which relate to those programs, and is to authorized representatives of:

(A) The Comptroller General of the United States;

(B) The Secretary of the United States Department of Education; or

(C) State or local educational authorities.

(b) Information that is collected under subsection (a) of this section must:

(A) Be protected in a manner that does not permit personal identification of individuals by anyone except the officials referred to in subsection (a) of this section; and

(B) Be destroyed when no longer needed for the purposes listed in subsection (a) of this section.

(c) Subsection (b) of this section does not apply if:

(A) The student has given written consent for the disclosure under OAR 589-004-0450; or

(B) The collection of personally identifiable information is specifically authorized by federal law.

(4) The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:

(a) Determine eligibility for the aid;

(b) Determine the amount of the aid;

(c) Determine the conditions for the aid; or

(d) Enforce the terms and conditions of the aid;

(e) As used in this section, "financial aid" means a payment of funds provided to an individual (or a payment in kind of tangible or intangible property to the individual) that is conditioned on the individual's attendance at an education agency or institution;

(f) If the student refuses to consent to disclosure of personally identifiable information and/or his/her social security number, but releases the social security number as a condition of receiving financial aid, the college shall mask the social security number to ensure it is used only for purposes allowed under federal financial aid law.

(5)(a) The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions to:

(A) Develop, validate, or administer predictive tests;

(B) Administer student aid programs; or

(C) Improve instruction.

(b) The agency or institution may disclose information under this section only if:

(A) The study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization; and

(B) The information is destroyed when no longer needed for the purposes for which the study was conducted.

(c) For the purposes of this section, the term "organization" includes, but is not limited to, federal, state, and local agencies, and independent organizations.

(6) The disclosure is to accrediting organizations to carry out their accrediting functions.

(7) The disclosure is to parents of a dependent student as defined in Section 152 of the Internal Revenue Code.

(8) The disclosure is to comply with a judicial order or lawfully issued subpoena. The educational agency or institution may disclose information under this section only if the agency or institution makes a reasonable effort to notify the student of the order or subpoena in advance of compliance.

(9) The disclosure is to law enforcement, child protective services, and health care professionals, and other appropriate parties in connection with a health and safety emergency if knowledge of the information is necessary to protect the health and safety of the student or other individuals.

(10) The disclosure is information the educational agency or institution has designated as "directory information", under the conditions described in OAR 589-004-0100(1) and 589-004-0200(2) through (5).

[Publications: The publication(s) referred to or incorporated by referenced in this rule id available from the agency.]

Stat. Auth.: ORS ~~326.054~~ 351.735, ORS 341.015 & ORS 341.290(17)

Stats. Implemented: ORS 341.290

Hist.: EB 7-1994, f. & cert. ef. 4-29-94; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0480

## 589-004-0550

### Penalties for Misuse

Any officer or employee of OCCURS or of the Department of Community Colleges and Workforce Development or of any other state agency who has access to personally identifiable student records maintained and/or provided by a community college who, without proper authority, shall disclose such information may be disqualified from holding any appointment or employment with the State of Oregon, ~~in accordance with ORS 329.965(4).~~

Stat. Auth.: ORS ~~326.054~~ 351.735, ORS 341.015 & ORS 341.290(17)

Stats. Implemented: ORS 341.290 ~~& ORS 329.965(4)~~

Hist.: EB 7-1994, f. & cert. ef. 4-29-94; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0490

## 589-004-0600

### Rediscovering Information

(1) Any party who receives student records containing personally identifiable information from a community college or colleges may disclose that information to a third party only if the student has been notified of the redisclosure and its purpose in the original disclosure notice and has consented, unless redisclosure falls under the exceptions described in OAR 589-004-0500.

(2) Social security numbers disclosed to the Shared Information System must be encoded either by the originating college or by OCCURS, ~~as required in ORS 329.965.~~

(3) Community colleges, OCCURS, or other parties may share and publish aggregate data which do not identify any individual student, without meeting the consent requirements of section (1) of this rule.

Stat. Auth.: ORS ~~326.051~~ 351.735, ORS 341.015 & ORS 341.290(17)

Stats. Implemented: ~~ORS 329.965~~, ORS 341.290, 20 U.S.C. Sec. 1232g (b)(5); & 34 CFR Sec. 99.32(a)

Hist.: EB 7-1994, f. & cert. ef. 4-29-94; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0500

**589-004-0650**

### **Filing a Federal Complaint**

(1) A person may file a written complaint with the Family Policy Compliance Office, United States Department of Education, regarding an alleged violation under the Family Educational Rights and Privacy Act. The Office's address is: Family Policy and Compliance Office, U.S. Department of Education, Washington, D.C. 20202-4605.

(2) A timely complaint under section (1) of this rule is defined as an allegation of a violation of the Family Educational Rights and Privacy Act that is submitted to the Family Policy Compliance Office within 180 days of the date of the alleged violation or of the date that the complainant knew or reasonably should have known of the alleged violation.

(3) The Family Policy Compliance Office extends the time limit in section (2) of this rule if the complainant shows that he or she was prevented by circumstances beyond the complainant's control from submitting the matter within the time limit, or for other reasons considered sufficient by the Family Policy Compliance Office.

| Stat. Auth.: ORS ~~326.054~~ 351.735, ORS 341.015 & ORS 341.290(17)

Stats. Implemented: ORS 341.290 & 34 CFR Sec. 99 et seq.

Hist.: EB 7-1994, f. & cert. ef. 4-29-94; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0510



**589-004-0700****Civil Action**

Any person claiming to be aggrieved by the reckless disclosure of personally identifiable information from a student's education records, as prohibited by OAR 589-004-0150 through 589-004-0550, may file a civil action in circuit court pursuant to ORS 30.864.

| Stat. Auth.: ORS ~~326.054~~ 351.735, ORS 341.015 & ORS 341.290(17)

Stats. Implemented: ORS 30.864 & ORS 341.290

Hist.: EB 7-1994, f. & cert. ef. 4-29-94; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0520

## 589-004-0750

### Recordkeeping Requirements

(1) A college shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student:

(a) The college shall maintain the record with the education records of the student as long as the records are maintained;

(b) For each request or disclosure the record must include:

(A) The parties who have requested or received personally identifiable information from the education records; and

(B) The legitimate interests the parties had in requesting or obtaining the information;

(c) Colleges that maintain electronic records may flag those records to refer to disclosure information which applies to all students;

(d) For purpose of ongoing submission of records to OCCURS, a single record or electronic flag referring to OCCURS policy on data elements collected and transmitted shall constitute appropriate recordkeeping.

(2) If a college discloses personally identifiable information from an education record with the understanding authorized under section (1) of this rule, the record of disclosure required under this section must include:

(a) The names of the additional parties to which the receiving party may disclose the information on behalf of the college; and

(b) The legitimate interests under OAR 589-004-0500 which each of the additional parties has in requesting or obtaining the information.

(3) A college is not required to keep records of disclosures when the disclosure is to:

(a) The student who is the subject of the record;

(b) A college official with a legitimate educational reason under OAR 589-004-0500(1);

(c) A party with written consent from the student; or

(d) A party seeking directory information.

| Stat. Auth.: ORS ~~326.054~~ 351.735, ORS 341.015 & ORS 341.290(17)

Stats. Implemented: ORS 341.290, 20 U.S.C. Sec 1232g(b)(5) & 34 CFR Sec. 9932(a)

Hist.: EB 7-1994, f. & cert. ef. 4-29-94; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0530

**589-005-0100**

**Formation of a Community College District**

(1) The petition submitted to the ~~Oregon State Board of Education~~ Higher Education Coordinating Commission pursuant to ORS 341.025 for approval of the formation of a community college district shall include the following:

- (a) Total population within the proposed community college district;
- (b) True cash and assessed valuation of the proposed community college district and property tax rates in effect in the proposed college district;
- (c) High school enrollment within the proposed community college district;
- (d) Maps showing the location of high schools within the proposed community college district;
- (e) Employment trends in the proposed community college district.
- (f) The minimum number of required signatures of 500, or 10 percent, of the electors registered in each county or parts of counties within the designated territory, whichever is the lesser. The number of required signatures for each county or parts of counties shall be proportionate to the qualified voters of the entire proposed community college district.
- (g) The boundaries of the territory to be included in the proposed community college district which may include all or part of the territory lying within the boundaries of a school district and may be located in more than one county;
- (h) The method of nomination and election of the board of education of the proposed community college district from among the methods described in ORS 341.327.

(2) In addition to the criteria set forth under ORS 341.045, and in keeping with its responsibilities outlined under ORS 341.055 and 341.065, the ~~State Board~~ Higher Education Coordinating Commission shall determine whether the formation of a community college district is warranted.

(3) In considering whether residents of an area will materially benefit from inclusion in a community college district, as described in ORS 341.055, the ~~State Board~~ Higher Education Coordinating Commission shall consider:

- (a) The number of potential students living within 50 miles of the location of the proposed community college district's main campus;
- (b) Other indications that a community of interest exists that connects the area to the proposed community college district.

Stat. Auth.: ORS ~~326.054~~ 351.735 & ORS 341.025

Stats. Implemented: ORS 341.025 - ORS 341.185

Hist.: 1 EB 131, f. 5-19-72, ef. 6-1-72; EB 13-1991, f. & cert. ef. 7-19-91; Renumbered from 581-041-0005, 581-41-010 & 581-041-0015; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-042-0150; DCCWD 1-2003, f. & cert. ef. 1-9-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

## 589-005-0200

### Formation and Definition of a Community College Service District

(1) For the purposes of this rule, "community college service district" is defined as a district that is governed by the laws applicable to community college districts but which:

(a) May not incur bonded indebtedness for any purpose; and

(b) Must undergo an annual review by its board to determine which district services can most effectively and economically be delivered directly and which services can best be delivered through contracting arrangements.

(2) A petition for the formation of a community college service district shall contain the same information required for formation of a community college district set forth in OAR 589-005-0100.

(3) A petition affecting a territory that, in the judgment of the Commissioner, will not generate an annual enrollment in excess of 1,000 full-time equivalent students after three years of operation shall be considered to be a petition for the formation of a community college service district.

(4) In addition to the criteria set forth under ORS 341.045, and in keeping with its responsibilities outlined under ORS 341.055 and 341.065, the ~~State Board~~ Higher Education Coordinating Commission shall use the following criteria in determining whether the formation of a community college service district is warranted:

(a) The community college-type education services needed for the petitioning area can best be served by a community college service district which contracts for instructional services;

(b) A community college service district can more effectively provide the needed educational services than other existing districts.

Stat. Auth.: ORS ~~326.051~~ 351.735 & ORS 341.025

Stats. Implemented: ORS 341.039

Hist.: 1EB 178, f. 10-18-74, ef. 11-11-74; EB 22-1989(Temp), f. & cert. ef. 6-12-89; EB 13-1991, f. & cert. ef. 7-19-91; Renumbered from 581-043-0220 & 581-043-0230; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-042-0200; DCCWD 1-2003, f. & cert. ef. 1-9-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

### Boundary Changes

(1) The ~~State Board of Education~~ Higher Education Coordinating Commission shall constitute the boundary board for community college districts. The ~~State Board~~ Higher Education Coordinating Commission on its own motion or on petition from a petitioning territory may propose changes in the boundaries of the community college district. The ~~State Board~~ Higher Education Coordinating Commission must find that the proposed change will have no substantially adverse effect upon the ability of the affected districts to provide and continue their program and is not made solely for tax advantages to property owners in the district or area affected by the proposed change.

(2) Petitions for community college boundary changes shall contain the following information:

(a) A statement describing and map of the boundary change requested;

(b) A full and complete description of the area proposed to be included within or excluded from the community college district. The area description may be by counties, cities, school districts, metes and bounds, or by any combination of these methods;

(c) A statement whether or not an area proposed to be included is within the boundaries of another community college district;

(d) A maximum of three persons as chief petitioners setting forth their names and mailing addresses;

(e) Verification on the face of each sheet of the petition by the affidavit of the person who circulated the sheet, stating that every person who signed the sheet did so in his or her presence and that he or she believes that each signer stated his or her correct residence address and is a registered elector.;

(f) The minimum number of signatures required under section (6) of this rule.

(3) The ~~State Board~~ Higher Education Coordinating Commission may, at its discretion, reject the petitions if any of the conditions in subsections (2)(a) through (e) of this rule are not met.

(4) The ~~State Board~~ Higher Education Coordinating Commission may, at its discretion, request the county clerk to verify all or a sampling of the names appearing on the petition. The ~~State Board~~ Higher Education Coordinating Commission shall pay to the county clerk any appropriate charges for such verification. The ~~State Board~~ Higher Education Coordinating Commission may at its discretion reject the petitions if a sufficient sampling of the names is not verifiable by the county clerk because the names on the petitions cannot be read or if a sampling indicates that sufficient signers are not registered electors.

(5) Petitions for community college boundary changes shall be substantially in the form provided by the ~~State Board of Education~~ Higher Education Coordinating Commission.

(6) The minimum number of signatures required on a petition to change the boundary of a community college district shall be at least 10 percent of the qualified electors of the area seeking to be changed, or at least 500 signatures of qualified electors of the area seeking to be changed, whichever is less.

(7) Where all or part of two or more counties is in the area to be changed, the number of signatures from each of such counties shall be proportionate to the relative populations of the counties or parts thereof within the area proposed to be changed.

(8) Petitions must be delivered to the Department of Community Colleges and Workforce Development in the original. Faxed copies shall not be accepted.

(9) Following submission of a petition and its acceptance by the ~~State Board~~ Higher Education Coordinating Commission, the ~~State Board~~ Higher Education Coordinating Commission shall hold a public hearing in accordance with ORS Chapter 183, the Administrative Procedures Act, and issue an order as described in ORS 341.565.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS ~~326.054~~ 351.735

Stats. Implemented: ORS 341.565

Hist.: 1 EB 131, f. 5-19-72, ef. 6-1-72; 1 EB 139, f. 10-5-72, ef. 10-15-72; 1 EB 140, f. 10-5-72, ef. 10-15-72; EB 13-1991, f. & cert. ef. 7-19-91; Renumbered from 581-041-0025 & 581-041-0030; EB 30-1995, f. & cert. ef. 12-21-95; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-042-0300; DCCWD 1-2003, f. & cert. ef. 1-9-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

589-005-0400

## Remonstrance Petitions

(1) A petition submitted in remonstrance to the annexation of territory to a community college district pursuant to ORS 341.569 shall be submitted no later than 20 days from the date and hour of adjournment of the last public hearing held on the question of annexation pursuant to ORS 341.565(3).

(2) Remonstrance petitions shall meet the following requirements:

(a) A maximum of three persons as chief petitioners shall provide their names and mailing addresses on the face of the petition;

(b) Each petition shall be verified on the face of each sheet by the affidavit of the person who circulated the sheet, stating that every person who signed the sheet did so in his or her presence and that he or she believes that each signer stated his or her correct residence address and is a registered elector.

(3) The ~~State Board~~ Higher Education Coordinating Commission may, at its discretion, reject the petitions if any of the conditions in subsections (2)(a) and (b) of this rule are not met.

(4) The ~~State Board~~ Higher Education Coordinating Commission may, at its discretion, request the county clerk to verify all or a sampling of the names appearing on the petition. The ~~State Board~~ Higher Education Coordinating Commission shall pay to the county clerk any appropriate charges for such verification. The ~~State Board~~ Higher Education Coordinating Commission may at its discretion reject the petitions if a sufficient sampling of the names is not verifiable by the county clerk because the names on the petitions cannot be read or if a sampling indicates that sufficient signers are not registered electors.

(5) Petitions in remonstrance to a community college boundary changes shall be substantially in the form provided by the ~~State Board of Education~~ Higher Education Coordinating Commission.

(6) The minimum number of signatures required on a petition in remonstrance to a change in the boundary of a community college district shall be at least five percent of the qualified electors of the area seeking to be changed, or at least 500 signatures of qualified electors of the area seeking to be changed, whichever is less.

(7) Where all or part of two or more counties is in the area to be changed, the number of signatures from each of such counties shall be proportionate to the relative populations of the counties or parts thereof within the area proposed to be changed.

(8) Petitions must be delivered to the Department of Community Colleges and Workforce Development in the original by the deadline described in section (1) of this rule. Faxed copies shall not be accepted.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS ~~326.054~~ 351.735

Stats. Implemented: ORS 341.569

Hist.: EB 31-1995, f. & cert. ef. 12-21-95; EB 9-1996, f. & cert. ef. 5-24-96; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-042-0310; DCCWD 1-2003, f. & cert. ef. 1-9-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

589-005-0500

### Elections on the Question of Annexation

(1) Pursuant to ORS 341.569, the ~~State Board of Education~~ Higher Education Coordinating Commission shall submit the question of a proposed boundary change to a vote only if:

(a) The ~~state board~~ Higher Education Coordinating Commission enters the order to revise the boundaries of a community college district;

(b) A remonstrance signed by at least five percent or at least 500, whichever is less, of the electors either in an area to be included in the district or excluded from the district by the proposed boundary change or in the community college district is filed with the state board within 20 days after the date on which the hearing pursuant to ORS 341.565 is adjourned finally; and

(c) The area to be included in the district is not surrounded by the territory of a single community college district.

(2) If an election on the question of annexation is required, the ~~State Board of Education~~ Higher Education Coordinating Commission, as designated boundary board, shall file the ballot title with the appropriate elections official.

(3) The ballot title is to be filed with the elections official in the county in which the host community college resides. That county official shall certify the election in the appropriate county or counties, whether or not an election is required in the host districts county.

(4) The ~~State Board of Education~~ Higher Education Coordinating Commission, as designated boundary board, is responsible for filing the documentation described in ORS 308.225 with the county assessor and with the Department of Revenue and for meeting the necessary timelines.

(5) Unless otherwise directed by statute, the annexing community college district is responsible for the costs of any election on the question of annexation.

Stat. Auth.: ORS ~~326.054~~ 351.735

Stats. Implemented: ORS 341.569

Hist.: EB 32-1995, f. & cert. ef. 12-21-95; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-042-0320; DCCWD 1-2003, f. & cert. ef. 1-9-03; DCCWD 5-2003, f. & cert. ef. 10-20-03



## **Apprenticeship Definitions**

For purposes of this rule:

(1) "Academic credit" means the indication or certification by a community college that a student has completed a unit of study or demonstrated achievement or proficiency, so as to have satisfied a portion of the requirements for a degree or other academic recognition offered by the community college.

(2) "Academic credit course" means collegiate-level courses offered by the college as part of a lower-division transfer degree or approved professional technical program. Also known as "credit course."

(3) "Adverse intersegmental impact" or "adverse impact" means the detriment of duplication which would fall on a school or its students in a segment other than that of the school proposing the new program or location, except that a publicly funded program or location proposed by a private school or other organization has adverse intersegmental impact if it is detrimental to a school in any of the five segments: 1) Oregon University System, 2) Oregon Health and Sciences University, 3) private Oregon degree granting institutions, 4) private nondegree career schools and 5) community colleges.

(4) "Apprenticeable occupation" means a skilled trade that:

(a) Is customarily learned in a practical way through a structured, systematic program of on-the-job supervised training;

(b) Is clearly identified and commonly recognized throughout an industry;

(c) Involves manual, mechanical or technical skills and knowledge which require a minimum of 2,000 hours of on-the-job supervised training; and

(d) Requires related instruction to supplement the on-the-job training.

(5) "Apprenticeship credit" means the indication or certification by a local joint committee that an apprentice has demonstrated achievement or proficiency so as to satisfy a portion of the apprenticeship requirements as identified by the State Apprenticeship and Training Council.

(6) "Apprenticeship degree" means a state-approved Associate of Applied Science degree program that is approved for registered apprentices and journey persons and meets the standards and criteria for Associate of Applied Science degrees.

(7) "Apprenticeship program" means the total system of apprenticeship as operated by a particular local joint committee, including the committee's registered standards and all other terms and conditions for the qualification, recruitment, selection, employment and training of apprentices in that apprenticeable occupation.

(8) "Apprenticeship standards" means a written agreement submitted by a local joint committee and approved by the State Apprenticeship and Training Council, that sets forth a plan containing all terms and conditions for the qualification, employment and training of apprentices or trainees as set forth in ORS 660.126 and 660.137.

(9) "Associate of Applied Science (AAS)" means a state-approved associate degree that is intended to prepare graduates for direct entry into the workforce. AAS degrees may also help to prepare students for career advancement, occupational licensure, or further study at the baccalaureate level.

(10) "Associate degree" means a state-approved lower division undergraduate award issued by a community college that indicates satisfactory completion of a course of study approved by the community college board.

(11) "Associate of General Studies" means a state-approved associate degree that is intended to meet the individual student needs using a variety of collegiate level courses to meet degree requirements.

(12) "Bureau of Labor and Industries (BOLI)" means the Oregon state agency responsible for apprenticeship and training in Oregon.

(13) "Certificate of completion" means a form of recognition awarded by a community college for meeting minimum occupational course or curriculum requirements. Certificates of completion must be state-approved, have a defined job entry point, represent college-level work, and meet ~~State Board of Education's~~ Higher Education Coordinating Commission criteria. Commonly referred to as less than one-year, one-year and two-year certificates of completion.

(14) "Clock/contact hours" means one clock (or contact) hour that is 60 minutes long. No more than 10 minutes of each hour can be used for a regularly scheduled break or passing period.

(15) "Collegiate level work" means course and program content that provides skills and information beyond what is normally gained before or during the secondary level. It is characterized by analysis, synthesis, and application in which students demonstrate an integration of skills and critical thinking. It is a term that denotes more than college/university transfer courses. It also includes professional technical education and other courses that exceed basic skills, workplace readiness, and fundamental basic skills. Courses must be collegiate level if used to fulfill a requirement in an associate degree, Associate of Applied Science degree option or certificate of completion program.

(16) "Cooperative work experience (CWE)" means the placement of students by the college in a structured work-based learning experience that is directly related to their classroom studies and under the control of the college. The college instructor or supervisor visits the field work site regularly. Supervision toward achievement of college identified and approved student learning outcomes and measurable learning objectives is also provided by the employer or other individual contracted to provide field experience. Each student should have theoretical knowledge and/or practical experience in a relevant major field of study prior to being placed in a cooperative work experience.

(17) "Core apprenticeship services" means those services offered by Oregon community colleges to apprentices and local joint committees when college tuition is paid and state reimbursable fulltime equivalency (FTE) is generated through the apprenticeship related training.

(18) "Course challenge examination" means the award of academic credit by a community college when a student demonstrates through comprehensive examination of one or more related training classes that they have achieved the competencies and proficiencies of a course at or above the standard of academic achievement for the course. Local policies govern whether this is an acceptable alternative for students and the nature of the examination (oral, written, demonstration, etc.) Credit can only be granted for courses that are part of that college's approved curriculum.

(19) "Council" means the State Apprenticeship and Training Council as defined in ORS 660.010.

(20) "Course of study for apprentices and trainees" means the instructional objectives and outline of course content for related training and manipulative instruction as developed from a trade analysis for the trade, craft or industrial occupation as established in accordance with ORS 660.157.

(21) "Credit for prior certification" means the awarding of credit by a community college toward an associate degree or certificate of completion to acknowledge achievement of a publicly certified credential such as a journey persons card.

(22) "Credit for prior experiential learning" means the awarding of academic credit by a community college for prior learning acquired from work or life experience, mass media and independent reading and study.

(23) "Department" means the Oregon Department of Community Colleges and Workforce Development.

(24) "Detrimental duplication" means a situation that occurs when recruitment of students for a new program or location will tend to redirect prospects from a fixed pool concomitant with the application of publicly funded educational cost subsidies, thereby significantly reducing enrollment in existing similar programs for which student

financial aid is available but the number of prospective enrollees is limited by nonfinancial factors such as interest, qualifications needed for admission, internship openings for students, and job openings for graduates

(25) "Direct control" means the community college maintains direct and sole responsibility for the academic quality of all aspects of all programs and courses through the management and supervision by faculty and institutional administrators.

(26) "Employer" means any person employing the services of a registered apprentice, regardless of whether such person is a party to an apprenticeship agreement with that apprentice.

(27) "Fulltime equivalency (FTE)" means a student or a combination of several students who carries or carry among them, within a single academic year, a minimum number of clock hours of instruction, in any program, to be specified by rule by the ~~State Board of Education~~ Higher Education Coordinating Commission.

(28) "General education" means the introduction to the content and methodology of the major areas of knowledge including the humanities and fine arts, the natural sciences, mathematics, and the social sciences and help students to develop the mental skills that will make them more effective learners.

(29) "Laboratory (lab)" means an instructional setting in which students work independently with the instructor available and in the instructional area for assistance and supervision.

(30) "Lecture" means an instructional setting in which the instructor delivers information with limited student discussion.

(31) "Lecture/laboratory (Lecture/lab)" means an instructional setting in which the instructor gives short presentations and supervises student application of content. Instructional methods are integrated; lecture and lab are dependent upon each other for the student's educational success.

(32) "Local joint committee" means local joint apprenticeship committees, local joint training committees and trade committees.

(33) "Minimum guideline standards" means industry/trade benchmarks developed and proposed by the appropriate state joint committee and approved by the Council representing the fundamental requirements necessary for entry into, and completion of specific Council approved occupational/trade programs.

(34) "Non-credit course" means a course that does not offer college academic credit for completion. Non-credit courses are not required to use an established standard of academic achievement and therefore generally are not used as part of a credit-based degree or certificate of completion program.

(35) "Occupational preparatory course" means collegiate level courses designed to prepare persons for employment in a specified occupation or cluster of closely related occupations.

(36) "Occupational supplementary course" means collegiate level courses designed for individuals who have already entered an occupation but seek to improve their occupational skills and knowledge in order to achieve employment stability or advancement.

(37) "On-the-job training (OJT)" means training provided to an employee under the direct auspices of the employer or their representative.

(38) "Professional technical courses" are defined as the occupational preparatory or occupational supplementary collegiate level courses that are designed to prepare persons for entrance into and employment stability and advancement in specific occupations or clusters of closely related occupations.

(39) "Professional technical program" means collegiate level coursework that is designed to prepare persons for entrance into and employment stability and advancement in specific occupations or clusters of closely related occupations. Successful completion of professional technical programs results in the achievement of a state-

approved certificate of completion, Associate of Applied Science degree or Associate of Applied Science degree option.

(40) "Registered apprentice" means a worker at least 16 years of age, except where a higher minimum age is otherwise required by law, who is employed to learn an apprenticeable occupation under standards of apprenticeship approved by the State Apprenticeship and Training Council or by the federal Office of Apprenticeship Training and Employer Labor Services. Also known as "apprentice."

(41) "Related instruction" means programs of study for which applied or specialized associate degrees are granted or programs of an academic year or more in length for which certificates of completion are granted, must contain a recognizable body of instruction in program-related areas of 1) communication, 2) computation, and 3) human relations. Additional topics that should be covered as appropriate include safety, industrial safety, and environmental awareness.

(42) "Related training attendance records" means the documentation required by the local joint committee to verify that a registered apprentice was present during the times required for an apprenticeship program.

(43) "Related training or apprenticeship related training" means an organized and systematic form of classroom/lab instruction designed to provide knowledge of the theory and technical aspects of an apprenticeable trade.

(44) "Standard of academic achievement" means demonstrated achievement, proficiency, or measured learning acknowledged as meeting a predetermined academic standard. Normally noted through a record transcribed and maintained by the college.

(45) "State Apprenticeship and Training Council" means the state apprenticeship and training entity as identified in ORS 660.010. Also known as "Council."

(46) "State-approved program" means a community college certificate of completion or associate degree program that has met and continues to meet the standards and criteria of and have been approved by the ~~State Board of Education~~ Higher Education Coordinating Commission.

(47) "Statewide program" means an Associate of Applied Science and/or certificate of completion program which is developed, applied for and continuously monitored by a partnership of colleges to address a specific program need through a cohesive and transferable curriculum among and between participating colleges.

(48) "Supplemental apprenticeship services" means those services that may be available at some community colleges on a fee for service basis to support the local joint committee. These services and others need to be included as part of an agreement between the community college and the local joint committees specifying the service to be performed, fees for services, length of service to be provided, etc.

(49) "Transcribed" means coursework entered into the official and formal records of a college including the level and achievement of a student.

Stat. Auth.: ORS ~~326.054~~ 351.735

Stats. Implemented: ORS ~~341.425~~ 351.735, ORS 341.665, ORS 660.157, ORS 660.160, ORS 660.167 & ORS 660.190

Hist.: 1EB 151, f. 7-20-73, ef. 8-1-73; 1EB 166, f. 2-20-74, ef. 3-11-74; 1EB 197, f. 5-23-75, ef. 6-25-75; EB 14-1991, f. & cert. ef. 7-19-91; Renumbered from 581-042-0090, 581-042-0095, 581-042-0100, 581-042-0105, 581-042-0110, 581-042-0115, 581-042-0120, 581-042-0125, 581-042-0130, 581-042-0135, 581-042-0140 & 581-042-0145; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-043-0400; DCCWD 2-2003, f. & cert. ef. 3-10-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

### **Apprenticeship Related Training Courses, Work-Based Learning and Academic Credit**

(1) Community colleges will cooperate with the State Apprenticeship and Training Council, the Department, and the local joint committees in providing the necessary related training courses to meet the objectives of courses of study as identified in ORS 660.157(1) for registered apprentices and trainees. The coordination of related training offered in these courses with job instruction, and the carrying out of the other details will be the responsibility of the community college. (ORS 660.160)

(2) For each occupation and industry, the State Apprenticeship and Training Council shall review and approve courses of study for apprentices, based on current occupational analyses, that meet the training needs of each local joint committee and that shall be available to all registered apprentices.

(3) Local joint committees, in cooperation with the community college, shall have the responsibility for determining the training needs of the apprentices indentured by the committees subject to the training objectives adopted for the particular occupation or industry.

(4) Community college apprenticeship related training will be based on the course of study for apprentices and trainees approved by the State Apprenticeship and Training Council.

(5) Community colleges will collaborate with the local joint committee to develop and implement apprenticeship related training courses to satisfy the related training requirements of apprentices within the limits of the available resources and facilities of the community college.

(6) Community colleges will collaborate with local joint committees to identify the apprentice training requirements that can be met by existing community college courses.

(7) Community colleges identified on the Annual List of Community College Related Training Providers will provide apprenticeship related training courses to registered apprentices when regional accreditation and ~~State Board of Education~~ Higher Education Coordinating Commission standards and requirements have been met. These standards and requirements include direct control by the community college relating to the approval of the curriculum and instruction, evaluation of the curricula, hiring or direct approval of instructors, evaluation of instructors and approval of the instructional setting.

(8) Community colleges will have sole responsibility for determining and providing academic credit for apprenticeship related training offered by the community college.

(9) The local joint committees will have responsibility for granting apprenticeship credit for training and education received in community college apprenticeship related training and other course work.

(10) Apprenticeship related training courses offered by community colleges will meet the same instructional standards and procedures as for other occupational supplementary and/or occupational preparatory courses offered by the community college.

(11) Apprenticeship related training courses offered by community colleges will follow the same contact hour to academic credit ratio as other academic credit courses offered by the community college. The ratio will include a consistent differentiation for instructional delivery provided through lecture, laboratory and lecture/laboratory as defined by state and local community college guidelines.

(12) Contact hours of apprenticeship related training offered by community colleges will be consistent with the hours of related training as approved by the State Apprenticeship and Training Council for the specific apprenticeship.

(13) Apprenticeship related training offered by the community colleges for apprentices may be offered as credit or non-credit courses at the discretion of the community college.

(14) Community colleges will transcript the credit for all apprenticeship related training courses completed by apprentices for academic credit. Non-credit apprenticeship related training course transcription is at the discretion of the college.

(15) Effective July 1, 2003, and thereafter, apprenticeship on-the-job (OJT) training paid in whole or in part by any person or entity employing the services of a registered apprentice shall not be considered by the community college or the Department as cooperative work experience or related training for the registered apprentice.

(16) Effective July 1, 2003, and thereafter, state FTE reimbursement will not be provided for on-the-job training for registered apprentices that are paid in whole or in part by any person or entity employing the services of a registered apprentice.

(17) Skill and knowledge gained by registered apprentices and journey persons through on-the-job training may be considered as nonreimbursable credit for prior learning and/or credit for prior certification, according to the policies and procedures of a community college.

(18) Effective July 1, 2003, and thereafter, cooperative work experience (CWE) and similar work-based learning courses may continue to be included in certificate of completion and/or associate degree programs for registered apprentices and journey persons, however credits transcribed by the college shall be only for credit for prior learning or credit for prior certification.

Stat. Auth.: ORS ~~326.054~~ 351.735

Stats. Implemented: ORS ~~341.425~~ 351.735, 341.665, 660.157, 660.160, 660.167 & 660.190

Hist.: DCCWD 2-2003, f. & cert. ef. 3-10-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

### Apprenticeship Related Training Instruction

- (1) Community colleges will enroll apprentices in apprenticeship related training courses utilizing the college registration procedures used for other students and student groups.
- (2) Apprentices enrolled for community college apprenticeship related training courses will be community college students and will have access to the same college services and facilities as other similarly enrolled students.
- (3) Community colleges will assure that apprenticeship related training courses are provided with classroom and laboratory space. Within the campus allocation and procurement procedures, community colleges will collaborate with the local joint committee to assure space for related training courses.
- (4) Community college tuition and applicable fees for apprenticeship related training courses will be set by the local community college in the same manner as tuition is set for other college offerings.
- (5) Community colleges will obtain necessary authorization from registered apprentices to provide class lists, grades, and progress and related training attendance records to the local joint committee on request.
- (6) To assist the local joint committee, community colleges will maintain and provide class lists, academic progress records, and related training attendance records for all registered apprentices enrolled in apprenticeship related training courses, when appropriate authorization has been obtained from the registered apprentice.
- (7) Registered apprentices that are enrolled in credit course work toward the achievement of community college certificate of completion or associate degree programs may be eligible for financial aid if they meet the college's financial aid guidelines.
- (8) The awarding of community college academic credit for apprenticeship related training toward associate degrees and certificates of completion will be determined by the local community college based on the local, Department, and ~~State Board of Education~~ Higher Education Coordinating Commission policies and procedures. Local policies and procedures will assure that an established standard of academic achievement has been met for all apprenticeship related training courses accepted toward college awards.
- (9) Community colleges will utilize the Professional Technical Course Approval Procedures as identified by the Department for the approval of apprenticeship related training courses.
- (10) Apprenticeship related training courses may be offered by the community college prior to final approval as identified by the Department in the Professional Technical Course Approval Procedures.

Stat. Auth.: ORS ~~326.054~~ 351.735

Stats. Implemented: ORS ~~341.425~~ 351.735, 341.665, 660.157, 660.160, 660.167 & 660.190

Hist.: DCCWD 2-2003, f. & cert. ef. 3-10-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

## 589-007-0130

### Apprenticeship Instructors

- (1) The community college conducting the apprenticeship related training courses will have direct control of the selection, supervision, and evaluation of the apprenticeship related training instructors.
- (2) Community colleges may contract with local joint committees to provide educational services including instruction to registered apprentices as identified in OAR 589-007-0180.
- (3) Community college apprenticeship related training instructors will be able to demonstrate the occupational competency necessary for the courses to be taught and will have the necessary knowledge and skills required of a practicing journey person.
- (4) Community college apprenticeship related training instructors will meet the same education, experience and other requirements in effect for other similar faculty, adjunct faculty or instructors as identified in local college policies, procedures and bargaining agreements.
- (5) Community colleges will ensure that apprenticeship related training courses are taught by instructors that have the teaching competencies and qualifications expected of other college instructors and as required by the occupations and industries.
- (6) Apprenticeship related training instructors' performance will be evaluated for quality, attendance and effectiveness according to the college's personnel policies or collective bargaining agreement, whichever applies to the community college. The community college may seek input for the evaluation of instructors from the local joint committee responsible for the administration of the training program.
- (7) The community college will collaborate with the local joint committee in determining the instructor occupational competency needed for the instruction of an apprenticeship related training course.
- (8) Community colleges will consult with the local joint committee for assistance in identifying qualified instructors for apprenticeship related training courses.
- (9) Community college apprenticeship related training instructors will be provided with the same opportunities for pre-service and in-service training as other community college instructors and faculty as identified in local college policies, procedures and bargaining agreements.
- (10) The community college will collaborate with the local joint committee to identify the needed competencies for apprenticeship related training instructors and to develop and implement appropriate community college pre-service and in-service training and experiences.

Stat. Auth.: ORS ~~326.054~~ 351.735

Stats. Implemented: ORS ~~344.425~~ 351.735, 341.665, 660.157, 660.160, 660.167 & 660.190

Hist.: DCCWD 2-2003, f. & cert. ef. 3-10-03; DCCWD 5-2003, f. & cert. ef. 10-20-03



### **Certificates of Completion and Associate Degrees for Apprentices and Journey Persons**

(1) Community college associate degree and certificate of completion programs offered for registered apprentices and journey persons will follow the same local and ~~State Board of Education~~ Higher Education Coordinating Commission standards, criteria and requirements as other certificate of completion and associate degree programs. Programs will follow the Certificate of Completion and Associate Degree Approval Procedures identified by the Department.

(2) Community college associate degree and certificate of completion programs developed for registered apprentices and journey persons will follow the general education, related instruction and other college requirements for certificate of completion and associate degree programs as identified by each community college.

(3) Community colleges will provide opportunities for apprentices and journey persons to achieve an associate degree using knowledge and skills from current and prior education and experience. The associate degree opportunity may include, but not be limited to, an Associate of Applied Science degree in an apprenticeable trade, or an Associate of Applied Science degree in an area such as Industrial Technology, or an Associate of General Studies.

(4) Community colleges with Associate of Applied Science degree (AAS) programs for registered apprentices and journey persons (apprenticeable trade AAS degree programs or in an area such as Industrial Technology degree programs) will align with BOLI minimum guideline standards by apprenticeable trade within two years of the establishment of the minimum guidelines standards for the apprenticeable trade. New and existing AAS degree programs for registered apprentices and journey persons will follow the Minimum Guideline Standards Certificate of Completion and Associate of Applied Science Degree Procedures identified by the Department in consultation with stakeholders.

Stat. Auth.: ORS ~~326.054~~ 351.735

Stats. Implemented: ORS ~~344.425~~ 351.735, 341.665, 660.157, 660.160, 660.167 & 660.190

Hist.: DCCWD 2-2003, f. & cert. ef. 3-10-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

**589-007-0150**

**Granting Academic Credit for Certificates of Completion and Associate Degrees for Apprentices and Journey Persons**

- (1) Registered apprentices and journey persons will be provided with the same opportunities for being awarded academic credit for prior learning or prior certification toward certificates of completion and associate degrees as is available for other community college students. These opportunities will include but may not be limited to: Credit for Prior Experiential Learning, Course Challenge Examination and Credit for Prior Certification.
- (2) Community colleges will follow the regional accreditation standards allowing no more than 25 percent of certificate of completion and associate degree programs to be met through credit for prior experiential learning.
- (3) Community colleges will utilize the same standards of achievement (proficiencies, grades, etc.) for granting academic credit for related training and previous experience for associate degrees and certificates of completion for apprentices and journey persons as for other community college students.
- (4) Apprenticeship related training courses completed for academic credit and transcribed at one Oregon community college will be evaluated toward meeting the requirements for college certificates of completion and associate degrees at another Oregon community college.
- (5) Journey persons with proof of Oregon journey person status or some other form of recognized state, regional or national standards certification may be awarded academic credit toward an associate degree based on local community college procedures.
- (6) Evaluation procedures to establish apprenticeship credit for community college work toward apprenticeship requirements will follow policies adopted by the State Apprenticeship and Training Council in cooperation with the Department. Apprenticeship credit is acknowledged and accepted by the local joint committee. The community college does not grant apprenticeship credit toward BOLI apprenticeship program requirements.

Stat. Auth.: ORS ~~326.054~~ 351.735

Stats. Implemented: ORS ~~341.425~~ 351.735, 341.665, 660.157, 660.160, 660.167 & 660.190

Hist.: DCCWD 2-2003, f. & cert. ef. 3-10-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

### **Menu of Core Apprenticeship Services and Supplemental Apprenticeship Services**

(1) Core apprenticeship services will include the services provided by Oregon community colleges to registered apprentices and local joint committees when the registered apprentice is enrolled for one or more related training courses at the community college and the related training courses meet the community college's content, minimum class size, and other requirements for such courses.

(2) The menu of core apprenticeship services will include the core apprenticeship services and the definition of each service as have been identified by the community colleges in collaboration with the Department. Core apprenticeship services will include:

(a) Registration services for registered apprentices;

(b) Academic credit for apprenticeship related training instruction under the direct control of the college utilizing the same academic credit and instructional guidelines used for other similar college courses;

(c) Opportunities for registered apprentices to complete requirements to achieve an associate degree;

(d) Registered apprentices with access to the same college services and facilities (financial aid eligibility, counseling, advising, library access, etc.) as other similarly enrolled students;

(e) Inservice and professional development opportunities for apprenticeship related training instructors that are consistent with opportunities provided for other similarly hired college instructors;

(f) Classroom and laboratory facilities for apprenticeship relating training courses either at the college facility or at another facility as agreed upon by the college and the local joint committee; and

(g) When appropriate authorization has been provided by the registered apprentice, apprenticeship related training class lists and related training attendance records for registered apprentices will be provided to local joint committees.

(3) Community colleges identified on the Annual List of Community College Related Training Providers may also provide a listing of supplemental apprenticeship services available to local joint committees from their individual community college. Supplemental apprenticeship services include services that may be available at an individual community college on a fee for service basis to support the local joint committee in its effort to provide effective services to registered apprentices.

(4) Supplemental apprenticeship services to be provided by a community college to a local joint committee will be provided through a contract between the parties. Such contracts will include but not be limited to the identification of supplemental apprenticeship and other services to be provided, fees for services provided and length of services to be provided.

(5) Supplemental apprenticeship services that may be provided by a community college on a fee for services basis through a contract between the community college and the local joint committee may include but are not limited to:

(a) Administrative support to the local joint committee;

(b) Posting meetings;

(c) Maintenance of equal opportunity records;

(d) Maintenance of records required by state and federal apprenticeship regulations;

(e) Computer technical support;

(f) Taking and distributing minutes for or on behalf of the local joint committee;

(g) Marketing/promotion;

(h) Grant proposal preparation and administration of grants;

(i) Assessing transferability of related training coursework;

(j) Completion of applicant rating forms; and

(k) End of the term recommendations.

Stat. Auth.: ORS ~~326.054~~ 351.735

Stats. Implemented: ORS ~~341.425~~ 351.735, 341.665, 660.157, 660.160, 660.167 & 660.190

Hist.: DCCWD 2-2003, f. & cert. ef. 3-10-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

### **Community College Apprenticeship Related Training Providers and Notification**

(1) Community colleges, within the limits of the available resources and facilities of the community college, will provide core apprenticeship services for the registered apprentices. Community colleges may contract with other community colleges to assist in providing core apprenticeship services to registered apprentices.

(2) By March 1, 2003, and by February 1 of each year thereafter, each community college will submit to the Department their intention to offer apprenticeship related training and core apprenticeship services to registered apprentices for the following school year beginning July 1.

(3) By April 1, 2003, and by March 1 of each year thereafter, the Department will publish the Annual List of Community College Related Training Providers identifying the community colleges that have indicated their interest in offering apprenticeship related training courses and core apprenticeship services for the following school year. The Department will provide the Annual List and menu of core apprenticeship services to the Bureau of Labor and Industries -- Apprenticeship and Training Division, the local joint committees and the community colleges.

(4) Local joint committees will utilize the Annual List of Community College Related Training Providers to enter into contractual agreements with one or more community colleges within the local joint committee boundaries to provide apprenticeship related training and core apprenticeship services to registered apprentices indentured to the local joint committee.

(5) If a community college and the local joint committee are unable to obtain agreement regarding apprenticeship related training and core apprenticeship services to be provided, the community college or local joint committee may contact the Department for a referral to the Oregon Public Policy Dispute Resolution Program for dispute resolution services. Dispute resolution services provided shall include fair and equitable membership as approved jointly by the community college(s) and the local joint committee.

(6) If no contractual agreement can be reached between a local joint committee and one or more community college(s) within the geographic jurisdiction of the local joint committee, the local joint committee may contract with any community college on the Annual List of Community College Related Training Providers willing to provide apprenticeship related training and core apprenticeship services.

(7) If the local joint committee determines that they wish to contract with another community college, the local joint committees will provide notice within 90 calendar days of the completion of the existing agreement to the contracting community college of its intention to contract with another community college.

(8) Contracts between community colleges and local joint committees will not imply any requirement on the part of the state for reimbursement.

Stat. Auth.: ORS ~~326.054~~ 351.735

Stats. Implemented: ORS ~~341.426~~ 351.735, 341.665, 660.157, 660.160, 660.167 & 660.190

Hist.: DCCWD 2-2003, f. & cert. ef. 3-10-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

### Contracts for Educational Services Between Community Colleges and Local Joint Committees

(1) Local joint committees, as private organizations, may contract with a community college to provide services of an educational nature that are subject to the approval of the ~~State Board of Education~~ Higher Education Coordinating Commission as identified in ORS 341.315.

(2) A community college may enter into contracts with local joint committees to obtain educational services for students enrolled in the community college as identified in ORS 341.440.

(3) Educational services provided under contract between the community college and the local joint committee must meet or exceed the accreditation requirements for Contractual Relationships with Organizations Not Regionally Accredited of the Commission on Colleges and Universities of the Northwest Association of Schools and of Colleges and Universities or their successor to ensure full accreditation for the community college.

(4) The applicable requirements for contracted education services include but are not limited to:

(a) The primary purpose of offering the course is educational.

(b) Any course offered must be consistent with the institution's educational mission and goals.

(c) Courses to be offered and the value and level of their credit must be determined in accordance with established institutional and ~~State Board of Education~~ Higher Education Coordinating Commission policies and procedures.

(d) Courses offered must remain under the sole and direct control of the community college, which exercises ultimate and continuing responsibility for the performance of these functions as it relates to:

(A) Recruitment and advertising;

(B) Advising and counseling students;

(C) Appointment and validation of credentials of faculty and instructors teaching the course;

(D) Admission of students to courses and/or to the community college;

(E) Instruction in the courses;

(F) Evaluation of student progress;

(G) Record keeping;

(I) Tuition and/or fees charged, receipt and disbursement of funds, and refund policy;

(J) Nature and location of courses;

(K) Library and information resources;

(L) Additional data including course outlines, syllabi, copies of exams, records of students and evidence of equivalencies with established programs.

(5) Educational services provided by the local joint committee under contract with the community college must meet the standards for educational services provided by the college as identified in ORS 341.440.

(6) Community colleges may not enter into a contract where the community college is required to share any portion of FTE reimbursement provided by the state.

(7) Contracts between the community college and the local joint committee will be based upon reasonable costs associated with the educational services provided under the contract.

(8) As set forth in ORS 341.440, the contract for educational services between the community college and the local joint committee will not exceed the costs that would otherwise be incurred by the college to provide students with the same or similar services.

(9) Contracts for educational services between the community college and the local joint committee may include those core apprenticeship services as identified in OAR 589-007-0160. Services provided must remain under the direct and sole control of the community college and meet the standards of regular community college courses, programs and services and are services that are best provided through the contractual arrangement. The educational services that may be provided by the local joint committee are limited to:

(a) Facilities for apprenticeship related training courses;

(b) Assistance in recommending instructional staff that meet the college requirements for college faculty and instructors;

(c) Related training instructors to serve as instructors for college related training courses that meet the college requirements for college faculty and instructors;

(d) Equipment, services and supplies to be utilized for apprenticeship related training courses; and

(e) Assistance in the development of curriculum and assessments for related training courses.

(10) Contracts for educational services between the community college and the local joint committee will be consistent with OAR 589-002-0500 and will clearly establish the requirements and responsibilities of the community college and the local joint committee following regional accreditation and other requirements. Contracts will be executed by designated officers of the community college and the local joint committee and will include the following elements:

(a) Identification of the work to be performed, period of the agreement, and conditions under which renewal or renegotiation of the contract would take place;

(b) Identification of the community college as having ultimate responsibility for the performance of necessary control functions for the educational offerings and offering academic credit;

(c) Establishment of the responsibilities of the community college and the local joint committee regarding:

(A) Indirect costs

(B) Approval of salaries

(C) Equipment

(D) Subcontracts and travel

(E) Property ownership and accountability

(F) Inventions and patents

(G) Publications and copyrights

(H) Accounting records and audits

(I) Security

(J) Termination costs

(K) Tuition refund

(L) Student records

(M) Faculty facilities

(N) Safety regulations

(O) Insurance coverage

(d) Demonstration that the regional accreditation requirements have been met regarding:

(A) Enrollment agreements

(B) Tuition policies including rates, refunds and cancellations and collection practices

(C) Student recruitment including advertising and promotional literature and field agents.

Stat. Auth.: ORS ~~326.064~~ 351.735

Stats. Implemented: ORS ~~341.425~~ 351.735, 341.665, 660.157, 660.160, 660.167 & 660.190

Hist.: DCCWD 2-2003, f. & cert. ef. 3-10-03; DCCWD 5-2003, f. & cert. ef. 10-20-03



**589-007-0200**

**Two Plus Two and Dual Credit Programs**

(1) For purposes of this rule, the following definitions apply:

(a) "Two Plus Two" means planned career and professional technical programs articulated between high schools and community colleges.

(b) "Dual Credit" means awarding secondary and postsecondary credit for a course offered in a high school during regular school hours, as determined by local school board and community college board policy.

(2) Before developing programs with high schools, each college shall file with the Department a policy for governing Two Plus Two and Dual Credit programs. Policies must include the following:

(a) Institutional standards for instructor qualifications (standards for teachers of lower division collegiate courses must include a master's degree in a subject area closely related to that in which the instructor will be teaching; however, in subject areas in which individuals have demonstrated their competencies and served in professional fields, and in cases in which documentation to support the individual's proficiency and high level of competency can be assembled, the master's degree requirement may be waived by the college president or substituted according to the community college's personnel policy);

(b) Methods for selecting student participants, including limiting classes to seniors and qualified juniors, and in exceptional cases other qualified students. Qualifications must be defined;

(c) Assurances that classes will be transcribed by the community college;

(d) Assurances that materials and subject matter are community college level.

(3) On or before October 1 of each year, community colleges shall submit an annual evaluation of the previous school year's Two Plus Two and Dual Credit programs, including but not limited to descriptions of:

(a) Programs and courses offered;

(b) Student outcomes;

(c) Instructors' qualifications; and

(d) Program costs.

(4) Participating school districts and post-secondary institutions shall develop written agreements based on the policies described in this rule regarding Two Plus Two and Dual Credit programs, which include:

(a) Criteria regarding approval of courses, selection and approval of instructors, admissions, procedures, counseling, monitoring, and evaluation; and

(b) The provision that all agreements and policies shall be available to all staff members involved in the programs and to parents and students.

(5) Participating school districts and postsecondary institutions shall, in consultation with appropriate staff members, determine that course content and instructional quality are consistent with that offered by the community colleges.

(6) The Commissioner shall require an accounting of FTE consistent with these rules.

Stat. Auth.: ORS ~~326.051- 351.735~~

Stats. Implemented: ORS 329.475, 329.855, ~~341.42 351.735~~, 341.450, ~~341.525(3)~~, ~~341.484~~ & 341.535

Hist.: 1EB 10-1981, f. 5-6-81, ef. 5-7-81; EB 14-1991, f. & cert. ef. 7-19-91; Renumbered from 581-042-0088; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-043-0510; DCCWD 1-2003, f. & cert. ef. 1-9-03; DCCWD 5-2003, f. & cert. ef. 10-20-03; DCCWD 4-2013, f. & cert. ef. 6-25-13

**589-007-0300**

**Veterans Programs**

Each community college requesting approval for the training of veterans and other eligible persons will contact the State Approving Agency (SAA) for veterans' administration.

Stat. Auth.: ORS ~~326.054~~ 351.735

Stats. Implemented: ORS ~~344.425~~ 351.735

Hist.: 1EB 223, f. 3-22-76, ef. 4-1-76; EB 14-1991, f. & cert. ef. 7-19-91; Renumbered from 581-046-0001; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-043-0530; DCCWD 1-2003, f. & cert. ef. 1-9-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

589-007-0600

### Adult High School Diploma Program

The purpose of the Adult High School Diploma program is to provide an opportunity for persons with an exemption from compulsory attendance to earn an Oregon diploma.

(1) Definitions. As used in this rule:

(a) "Adult High School Diploma" or "AHSD" means a diploma that fulfills all state requirements as provided in OAR 581-022-1130 and the community college program requirements as defined in the approved program plan, and is issued by a community college with an approved program plan on file at the Department of Community College and Workforce Development (CCWD).

(b) "Adult high school diploma credit" means credit earned by the student prior to enrolling in or earned outside of the AHSD program for academic coursework, as well as credit awarded by the community college for proficiency and life experience, but does not include credit awarded for challenge tests.

(c) "Adult high school diploma academic credit" means credit earned by the student at the community college for academic coursework, from either secondary level or community college courses.

(2) The ~~State Board of Education (SBE)~~ Higher Education Coordinating Commission shall oversee the AHSD as provided in ORS 326.051 and ORS 339.505(1) and approve AHSD programs of the community colleges. The ~~SBE~~ Higher Education Coordinating Commission delegates administrative responsibilities to the Commissioner of CCWD to review and make a recommendation to the ~~SBE~~ Higher Education Coordinating Commission regarding program approval.

(3) CCWD shall administer the statewide AHSD program as provided in ORS 341.425 and establish policies and procedures for the approval and monitoring of AHSD programs.

(4) Community colleges are authorized to award the AHSD subject to ~~SBE~~ Higher Education Coordinating Commission approval of the community college AHSD plan, consistent with these rules, and consistent with administrative policies and procedures of CCWD.

(5) To be eligible to receive an AHSD, a student shall:

(a) Have an exemption from compulsory attendance as provided in OAR 581-021-0076 and ORS 339.030(2), or otherwise not be required to attend as provided in ORS 339.010;

(b) Fulfill all state requirements as provided in OAR 581-022-1130 or other rules establishing minimum requirements for an Oregon diploma;

(c) Earn at least one adult high school diploma academic credit from a community college with an approved program; and

(d) Fulfill all program requirements as described in the approved community college AHSD program plan.

(6) A community college shall adopt policies and procedures for the approval of the AHSD program plan. These policies and procedures shall provide that:

(a) Before the community college may award an AHSD, the college shall have an approved program plan on file at CCWD. The plan shall be approved by the local community college board ~~of education~~ prior to being filed for review with CCWD and recommendation for approval by the Commissioner. The community college shall submit the plan to CCWD on a date and in a format described in guidance documents provided by CCWD.

(b) The filing process shall be complete when the SBE Higher Education Coordinating Commission has approved the plan and the community college has received a letter of authorization from CCWD.

(c) The plan must include but is not limited to:

(A) The statement of assurances described in guidance documents provided by CCWD; and

(B) A description of the following:

- (i) Program mission and goals;
- (ii) Admission requirements;
- (iii) Student orientation and advising;
- (iv) Maintenance of student records;
- (v) Services for students with disabilities;
- (vi) Student assessment and completion criteria;
- (vii) Course offerings;
- (viii) Personalized learning;
- (ix) Awarding adult high school diploma credit;
- (x) Minimum credit requirement;
- (xi) Other community college or program requirements; and
- (xii) Recognition of student achievement.

(7) Once a plan is approved by the SBE Higher Education Coordinating Commission, monitoring and evaluation of the approved plan is by CCWD through the Commissioner, pursuant to standards and rules of the SBE Higher Education Coordinating Commission. Monitoring and evaluation shall include annual reporting by the community college with such information as CCWD may require.

(8) A community college shall adopt policies and procedures for the annual update of the AHSD program plan. These policies and procedures shall provide that:

- (a) The program shall submit annually the signed statement of assurances as required by CCWD.
- (b) The program shall submit annually a plan update and statistical reports as required by CCWD.
- (c) The program shall participate in ongoing program monitoring and evaluation as required by CCWD.

(9) All community colleges are presumed to maintain an approved AHSD program unless the college has been found to be deficient by the Commissioner, pursuant to the AHSD plan requirements.

(10) If any deficiency is not corrected before the beginning of the program year following the date of the finding of deficiency and if an extension has not been granted under section (11), the Commissioner may recommend to the SBE Higher Education Coordinating Commission that AHSD program approval be rescinded until any such

deficiency is corrected unless the recommendation would create an undue hardship, as determined pursuant to rules of the ~~SBE Higher Education Coordinating Commission~~.

(11) The Commissioner must submit notification to a community college regarding a deficiency that will require the community college to submit a corrective action plan and a staff member of CCWD staff shall contact the community college and offer technical assistance.

(a) Within 90 days of the finding of deficiency, a community college shall submit a corrective action plan acceptable to the Commissioner for meeting AHSD plan requirements.

(b) When an acceptable plan for meeting AHSD plan requirements has been submitted, the Commissioner may allow an extension of time before recommending program approval be rescinded, not to exceed 12 months, if the Commissioner determines that any such deficiency cannot be corrected or removed before the beginning of the next program year.

(12) Pursuant to rules adopted by the ~~SBE Higher Education Coordinating Commission~~, the Commissioner may extend the time specified for submitting a corrective action plan if the Commissioner determines that a human-created disaster or a natural disaster affects the ability of the community college to comply with the date requirement.

(13) The ~~SBE Higher Education Coordinating Commission~~ may suspend, revoke, or refuse to renew its approval of an AHSD program if:

(a) The community college fails to maintain the requirements in OAR 581-022-1130;

(b) The community college fails to maintain the requirements in OAR 589-007-0600; or

(c) The community college refuses to implement corrective actions before the beginning of the next program year or by the end of the granted extension period.

(14) A community college may request to terminate its AHSD program by submitting a letter of termination from the community college board ~~of education~~.

(15) Program suspension or termination begins on the date that:

(a) The ~~SBE Higher Education Coordinating Commission~~ suspends, revokes, or refuses to renew its approval of an AHSD program; or

(b) The college designates as the final operating date in its letter of termination.

(16) Suspended or terminated programs requesting re-approval are required to utilize the AHSD Program Approval Procedure identified by CCWD.

Stat. Auth.: ORS ~~326.054~~ 351.735

Stats. Implemented: ORS ~~344.425~~ 351.735

Hist.: 1EB 132, f. 5-19-72, ef. 6-1-72; 1EB 166, f. 2-20-74, ef. 3-11-74; 1EB 263, f. & ef. 7-5-77; 1EB 9-1983, f. & ef. 10-13-83; EB 14-1991, f. & cert. ef. 7-19-91; Renumbered from 581-042-0005(5)(a) - (d); ODE 2-2001, f. 1-25-01, cert. ef. 1-26-01; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-043-0650; DCCWD 2-2013, f. & cert. ef. 5-31-13

**National Career Readiness Certificate (NCRC) Program**

(1) The purpose of the National Career Readiness Certification (NCRC) program is to prepare Oregonians for the workplace and for college as a part of implementing an integrated workforce delivery system that focuses on developing the skills and talents of Oregonians. The NCRC in Oregon provides individuals with documented, transportable, skills-based certificates.

(2) The Department of Community Colleges and Workforce Development (CCWD) shall administer the statewide program for the National Career Readiness Certificate called for in HB 2353, passed in the 2011 legislative session, and establish a policy and procedures for:

- (a) Initial skills review assessments to identify participant's skill levels;
- (b) Targeted instruction and remedial skill-building for participants;
- (c) Foundational skills assessments for participants;
- (d) Training of staff to administer assessments based on established guidelines;
- (e) Delivery site criteria and validation of these criteria;
- (f) Quality assurance processes;
- (g) Development of systems to collect, track and maintain data;
- (h) Participant's eligibility criteria. Eligible program participants:

(A) Must be a citizen or national of the United States, lawfully admitted permanent resident alien, refugee, asylee, or parolee, or other immigrant authorized by the Attorney General to work in the United States;

(B) Must be a resident of Oregon or an employee of businesses located in Oregon;

(C) Must comply with NCRC assessment-taking procedures and requirements as outlined in American College Testing (ACT) test coordinator manual and directions for administration.

(D) Must meet any additional eligibility requirements as dictated by the funding source(s) used to administer, implement, or support the NCRC program.

(3) Services provided by the NCRC program shall include, but are not limited to:

- (a) An assessment process that includes an initial skills review and a foundational skills assessment of examinees in reading for information, applied mathematics, and locating information at a minimum;
- (b) Targeted and accelerated instruction and remedial skills training to increase foundational skills for participants as determined by the assessment process;
- (c) Issuance of a National Career Readiness Certificate to any eligible individual who earns a minimum score of a 3 on each of the NCRC assessments for reading for information, applied mathematics, and locating information:

(A) Certificates issued to examinees on successful completion of the assessments must describe the skills demonstrated by the examinee as evidence of the individual's readiness for employment;

(B) Each of the NCRC assessments shall be scored on a scale of three and above. The level of credential examinees receive is based on the following:

(i) A bronze-level certificate requires a minimum score of three or above on each of the assessments.

(ii) A silver-level certificate requires a minimum score of four or above on each of the assessments.

(iii) A gold-level certificate requires a minimum score of five or above on each of the assessments.

(iv) A platinum-level certificate requires a minimum score of six or above on each of the assessments.

(4) The results of NCRC assessments must be used, at a minimum, to determine a participant's career readiness as determined by general skills requirements and job profiles, and to determine additional instructional needs for the participant in reading, locating information, and applied mathematics, or other assessments needed or required.

(5) Participants may opt out of the NCRC database by informing the Agency in writing, by mail, and with examinee's signature that he or she wants to opt out of the database.

(6) CCWD shall conduct periodic studies of the assessments used in Oregon to document Essential Skill for high school graduation to compare their effectiveness in preparing graduates for successful transition to post-secondary education and the workplace.

Stat. Auth.: ORS 183, 660.318, 660.330 - 660.339 and 660.343

Stats. Implemented:

Hist.: DCCWD 2-2009(Temp), f. & cert. ef. 7-15-09 thru 1-8-10; DCCWD 6-2009, f. & cert. ef. 12-14-09; DCCWD 3-2011, f. & cert. ef. 12-9-11; DCCWD 2-2012(Temp), f. & cert. ef. 8-6-12 thru 1-31-13; DCCWD 4-2012, f. & cert. ef. 12-26-12



**589-007-0800**

**Oregon On-the-Job Training (OJT) Program**

(1) The purpose of the Oregon On-the-Job Training (OJT) Program is to support the Governor's Workforce agenda by providing OJT and the National Career Readiness Certificate (NCRC) as solutions relating to employee hiring, training, and retention as defined by SB 5508.

(2) The Department of Community Colleges and Workforce Development (CCWD) determines the statewide implementation and operation of the OJT Program in Oregon.

(3) The OJT Program in Oregon shall involve at a minimum:

(a) Cost-effective solutions to the issues of employee hiring, training, and retention;

(b) Utilization of public and private resources;

(c) Certification of career readiness skills for participants as defined by the National Career Readiness Certificate;

(d) Employer provided, job-specific training for Oregonians newly hired under this program;

(e) A process to identify appropriate companies and job seekers to participate in the programs;

(f) A process by which monies may be appropriated and allocated to the local workforce investment boards to support projects identified by local workforce investment areas;

(g) Employer reimbursement schedules will follow local policies.

(4) Tracking and reporting to CCWD the outcomes of the Oregon On-the-Job Training Program in the local workforce investment area shall include, but are not limited to:

(a) The number of employers participating in the program;

(b) The number of employees completing training;

(c) The number of employees retained after completing training;

(d) Types of jobs filled by occupational codes;

(e) Characteristics of the unemployed being placed into OJTs;

(f) The number of participants that earn National Career Readiness Certificates;

(g) Signed NCRC letters of commitment from OJT employers to "prefer" job candidates that have an NCRC.

Stat. Auth.: ORS 183, 660.300 - 660.364

Stats. Implemented:

Hist.: DCCWD 2-2011(Temp), f. & cert. ef. 7-29-11 thru 1-25-12; DCCWD 4-2011, f. & cert. ef. 12-9-11

### Guidelines for Formation of Community College Personnel Policies

(1) Each community college board of education shall establish a personnel policy statement, including a policy on instructor selection and development that must include, but need not be limited to, the following:

- (a) Definitions of the main terms used in the policy;
- (b) Institutional standards for instructor qualifications (standards for teachers of lower division collegiate courses must include a master's degree in a subject area closely related to that in which the instructor will be teaching; however in subject areas in which individuals have demonstrated their competencies and served in professional fields and in cases in which documentation to support the individual's proficiency and high level of competency can be assembled, the master's degree requirement may be waived by the college president or substituted according to the community college's personnel policy);
- (c) Position descriptions;
- (d) Procedures for instructor approval, including period of instructor approval;
- (e) Procedures for providing individual, written notice of reasonable assurance of continued employment to all employees who are to perform services in the same or a similar capacity during a subsequent academic year or term or in the period immediately following a recess period. Such notice shall be given by May 30 of each year for employees employed as of that date and as of the date of hire for employees employed subsequent to May 30. Pursuant to ORS 341.547, faculty members on annual or indefinite tenure, classified staff members on regular status and management service employees are considered to have been given notice for the purposes of this section;
- (f) A statement regarding academic freedom and responsibility;
- (g) Procedures for staff development for full-time and part-time instructors;
- (h) Procedures for staff evaluation;
- (i) Grievance and appeals procedures;
- (j) Affirmative action and nondiscrimination practices;
- (k) College organization; and
- (l) Methods of policy development and review.

(2) Personnel policies adopted by community college boards shall be filed with the Commissioner within one year following establishment of the community college district. Thereafter, each college shall file annually, between December 1 and January 1, either any policy revisions made or a statement that policies currently on file are being continued. In the event the governing board of the community college fails to enact the personnel policies as required by subsection (1) of this rule, the Commissioner may withhold the next scheduled Community College Support Fund payment until such personnel policies are enacted and submitted to the Department.

(3) Each community college board shall develop a policy outlining the procedure for faculty selection. The policy shall include procedures by which the college will maintain records documenting the faculty member's credentials, professional development activities and other information supporting the faculty member's instructional assignment. In no case shall the standards for faculty selection fall below those set forth in the most recent *Accreditation Handbook* published by the Commission on Colleges and Universities of the Northwest Association of Schools and Colleges.

(4) Each community college board shall develop policies for professional development for full and part-time instructors consistent with the standards as required by the most recent *Accreditation Handbook* published by the Commission on Colleges and Universities of the Northwest Association of Schools and Colleges.

[Publications: Publications referenced are available from the agency.]

| Stat. Auth.: ORS ~~326.051~~ 351.735 & ORS 341.015

Stats. Implemented: ORS 341.015 & ORS 341.547

Hist.: 1EB 131, f. 5-19-72, ef. 6-1-72; 1EB 135, f. 7-11-72, ef. 8-1-72; 1EB 153, f. 7-20-73, ef. 8-1-73; 1EB 167, f. 2-20-74, ef. 3-11-74; EB 14-1991, f. & cert. ef. 7-19-91; Renumbered from 581-043-0005, 581-043-0010, 581-043-0015, 581-043-0020, 581-043-0025, 581-043-0030, 581-043-0035, 581-043-0100, 581-043-0105 & 581-043-0110; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-043-0700; DCCWD 1-2003, f. & cert. ef. 1-9-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

### Use of Community College Instructors in High Schools

(1) A school district may contract with a community college accredited by the Northwest Association of Schools and Colleges or a community college contracting for delivery of instructional and curriculum services with an accredited community college for instruction at a high school site by a faculty member who does not hold a current Teacher Standards and Practices Commission license if the following conditions are met:

(a) The faculty member is employed by a community college accredited by the Northwest Association of Schools and Colleges or the faculty member is employed by a community college under contract with an accredited community college for delivery of instructional and curriculum services.

(b) The faculty member's teaching qualifications are verified by formal preparation and/or work experience, including:

(A) Evidence of academic and/or professional technical training sufficient to demonstrate competency in the subject-matter area;

(B) Successful postsecondary teaching experience in the discipline and/or program area; or

(C) Resume of work experience sufficient to demonstrate competency in the discipline and/or program.

(c) The faculty member meets current board-adopted personnel policies of both the school district and community college.

(d) The faculty member presents evidence of good moral character, mental and physical health, and such other evidence as the school district board may deem necessary to establish the applicant's fitness to serve as a teacher;

(e) The person has not been convicted of any crime listed in ORS 342.143;

(f) The school district does not have appropriately licensed personnel available for the specific teaching assignment without misassignment and was not able to identify and attain such staff after conducting a reasonably diligent search; and

(g) The assignment includes no more than two high school units of credit or equivalent per year.

(2) A school district shall not contract for unlicensed staff under ORS 342.173(1) during school closures, strikes and summer sessions.

(3) Governing boards of the school district and community college shall annually review each contract to ensure that the requisites of this rule have been met:

(a) Contracts approved by both boards shall be forwarded to the ~~State Board of Education~~ Higher Education Coordinating Commission for annual review and approval. Such contracts may be submitted to the ~~State Board~~ Higher Education Coordinating Commission for approval after a teacher has been assigned to teach. However, the ~~State Board~~ Higher Education Coordinating Commission reserves the right to find any contract in violation of current statutes or administrative rules notwithstanding the teacher's starting date;

(b) The ~~State Board~~ Higher Education Coordinating Commission shall report to the Teacher Standards and Practices Commission violations of these rules that could result in forfeiture of State School Funds as stated in ORS 342.173 and OARs 584-050-0060, 584-050-0065 and 584-050-0067.

Stat. Auth.: ORS ~~326.054~~ 351.735; ORS 341.015; ORS 342.173

Stats. Implemented: ORS 341.535; ORS 342.173

Hist.: EB 25-1987(Temp), f. & ef. 10-20-87; EB 28-1988, f. & cert. ef. 6-9-88; EB 14-1991, f. & cert. ef. 7-19-91;

Renumbered from 581-043-0256; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-043-0750; DCCWD 1-2003, f. & cert. ef. 1-9-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

**589-009-0100**

**Immunizations Requirements for Certain Community College Students**

(1) Pursuant to ORS 433.283(2) and Health Division OAR ~~333-019-0090~~ 333-050-0140, the following definitions are set forth:

(a) "Clinical Experiences" means a student is required to complete practical work experience with patients in a public or private health facility.

(b) "Practicum Experiences in Education and Child Care Programs" means a student is required to complete practical work experience in a public or private child care or education setting.

(c) "Membership on an Intercollegiate Sports Team" means a college-sponsored team that engages in competition with other intercollegiate teams.

(2) Community college students born on or after January 1, 1957, must have two doses of measles vaccine prior to any participation in clinical experiences in allied health programs; or practicum experiences in education and child care programs; or membership on intercollegiate sports teams.

(3) Each community college shall develop procedures to implement and maintain this requirement.

(4) Each community college shall include a medical exemption and religious exemption.

(5) Acceptable records to document proof of two doses of measles vaccines are contained in OAR 333-050-0140.

(6) The Oregon Health Division may conduct validation surveys to insure compliance with the vaccination requirements.

Stat. Auth.: ORS ~~326.054~~ 351.735 & ORS 433.283

Stats. Implemented: ORS 433.283

Hist.: EB 25-1992(Temp), f. & cert. ef. 7-27-92; EB 32-1992, f. & cert. ef. 10-14-92; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-043-0800; DCCWD 1-2003, f. & cert. ef. 1-9-03; DCCWD 5-2003, f. & cert. ef. 10-20-03

**589-010-0100**

**Nondiscrimination in Education Programs**

(1) For the purposes of this rule:

(a) "Discrimination" or "discriminate" is defined as any act that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form but discriminatory in operation, either of which is based on race, color, national origin, religion, sex, age, disability, veterans' status, sexual orientation, or marital status.

(b) "Community College" is defined as any program or service operated by a community college or community college district.

(c) "Commissioner" means the Commissioner of the Department of Community Colleges and Workforce Development, or a person designated to act in his or her capacity.

(d) "Department" means the Department of Community Colleges and Workforce Development.

(2) No person in Oregon shall be subjected to discrimination in any Community College activity.

(3) Subject to exemptions granted by state or federal law, no person in Oregon shall be subject to discrimination in any terms or conditions of employment at any Community College. Every Community College shall develop and implement a nondiscrimination plan. Such plan shall be submitted to the Department at the time personnel policies are filed under OAR 589-008-0100.

(4) In providing education programs, services, or activities to students, a Community College shall not discriminate by:

(a) Treating one student differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;

(b) Providing different aid, benefits, or services; or providing such aids, benefits, or services in a different manner;

(c) Denying any student such aid, benefit, or service;

(d) Subjecting any student to separate or different rules or behaviors, sanctions, or other treatment;

(e) Aiding or perpetuating discrimination by joining or remaining a member of any agency or organization which discriminates in providing any aid, benefit, or service to students or employees;

(f) Otherwise limiting any student in the enjoyment of a right, privilege, advantage, or opportunity.

(5) A Community College shall not discriminate when providing any course or otherwise carrying out any of its educational programs or activities, or requiring or refusing participation therein by any of its students:

(a) This section does not prohibit grouping of students in any educational program or activity by ability as assessed by objective standards of individual performance.

(b) This section does not prohibit separating students by sex within physical education courses or activities, or during participation in sports in which the purpose or major activity involves bodily contact.

(6) Community Colleges shall not discriminate in offering housing facilities to students, except that:

(a) Separate housing may be provided for men and women; and

(b) Available housing of comparable quality may be divided between men and women on the basis of the number of applications for housing of each sex.

(7) Community Colleges shall not discriminate in providing financial assistance to applicants or students. However, Community Colleges are free to determine the total amount or types of assistance that will be granted and may place reasonable limitations on eligibility for assistance coming from any particular source. Community Colleges may not assist any person, organization or group in the administration of financial aid on a prohibited basis. Community Colleges shall comply with the implementing regulations of Title IX of the Education Amendments of 1972, with respect to administration of sex-restricted scholarships. Community Colleges that award athletic scholarships must ensure that reasonable opportunities exist for members of each sex to participate on athletic teams.

(8) A Community College that actively assists any agency, organization, or person in making employment available to any of its students shall not assist prospective employers known by the Community College to discriminate in their recruitment, hiring, or employment practices.

(9) A Community College or any of its agents, including student groups, may not discriminate in offering to students a medical, hospital, or accident policy, plan, benefit, or service. However, Community Colleges may offer a benefit or service even though it is not used by the same proportion of students of one group as of another. When full coverage health services are provided, basic gynecological care shall be provided.

(10) The Commissioner may issue written interpretations concerning rules for nondiscrimination upon the written request of parties to a complaint at the Community College level.

(11) Community Colleges shall adopt written procedures for the prompt resolution of complaints of discrimination. A grievant may, after exhausting grievance procedures at the Community College level, or 90 days if no final decision has been made by the Community College, appeal in writing to the Commissioner. On receiving a written appeal the Commissioner shall send a copy of the complaint to the President of the Community College to which the complaint applies. The Commissioner shall request the Community College to provide within ten days:

- (a) A copy of the Community College's grievance procedures for hearing complaints of discrimination;
- (b) A copy of all documents concerning the complaint and the Community College's record of the grievance proceeding;
- (c) A copy of the Community College's written decision;
- (d) The Community College's position concerning any issues raised by the appeal; and
- (e) Any other information the Community College considers relevant.

(12) After receiving the Community College's response, if the Commissioner determines that the person filing the appeal has not exhausted all Community College grievance procedures or that 90 days have not elapsed since the Community College received the complaint, the Commissioner shall notify the complaining party and the Community College that the Commissioner will take no action at this time. If the Commissioner determines that the person filing the complaint has exhausted Community College grievance procedures or that the Community College has not issued a final decision and more than 90 days have elapsed since the Community College's receipt of the complaint, the Commissioner shall make a determination as provided under section (15) of this rule.

(13) The Commissioner shall review the hearing record to determine the following:

- (a) Whether the Community College followed its grievance procedures appropriately;
- (b) Whether the Community College's findings are supported by facts and information in the record;
- (c) Whether the Community College engaged in any action that constitutes discrimination.



(14) The Commissioner shall consult the Department of Justice for advice if the appeal raises legal issues.

(15) Following review of the record, the Commissioner shall:

(a) Issue an order of dismissal of the appeal upon a finding that the Community College properly followed its procedures and that no substantial evidence exists to support the charge of discrimination;

(b) Recommend mediation if both parties are willing to participate in mediation;

(c) Remand the complaint to the Community College for prompt resolution if the Commissioner finds that the Community College has not followed its grievance procedures appropriately or that there are remaining factual issues that could be best resolved by the Community College;

(d) Issue an order with findings that the Community College has engaged in discrimination; or

(e) If the review indicates problems with the Community College's grievance procedure or its application of that procedure, require the Community College to submit a corrective action plan that addresses the deficiencies identified by the Commissioner within 30 days of the issuance of the Commissioner's order.

(16) The Commissioner shall enter an order in writing within 30 days of the filing of the appeal unless both parties agree to extend the time or the Commissioner finds there is good cause for an extension of time. Should the Commissioner find that an extension of time is warranted, notice of the allowed extension of time shall be delivered to all the parties within 30 days after the appeal was filed.

(17) If the Commissioner finds that the Community College has engaged in discrimination, the Commissioner shall require the Community College to submit a corrective action plan within 30 days of the issuance of the Commissioner's order. The corrective action plan should be designed to assure that the Community College corrects any discrimination that has occurred and that the Community College has taken reasonable steps to assure that the discrimination will not reoccur.

(18) If a Community College fails to submit a corrective action plan or fails to carry out the terms of its corrective action plan, the Commissioner shall consider the following sanctions:

(a) Withholding of state funding or

(b) Other remedies within the Commissioner's discretion.

(19) The Commissioner shall review the corrective action plan to ensure that it meets the requirements of the Commissioner's order, and under appropriate circumstances, the Commissioner may request additional information, conduct an on-site inspection, or take other appropriate action to ensure that the Community College has fully complied with the Commissioner's order and the corrective action plan.

(20) The Commissioner shall keep the ~~State Board of Education~~ Higher Education Coordinating Commission informed of any pending discrimination appeals and shall report to the ~~State Board of Education~~ Higher Education Coordinating Commission any final orders issued by the Commissioner at the next regular meeting following issuance of the Commissioner's order.

Stat. Auth.: ORS 659.850

Stats. Implemented: ORS 659.850, ORS 659.855 & ORS 659.860

Hist.: 1EB 260, f. 3-3-77, ef. 3-5-77; EB 14-1991, f. & cert. ef. 7-19-91; Renumbered from 581-043-0115, 581-043-0116, 581-043-0118 & 581-043-0119; EB 24-1995, f. & cert. ef. 9-18-95; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-043-0900; DCCWD 5-2002, f. & cert. ef. 11-13-02; DCCWD 5-2003, f. & cert. ef. 10-20-03

### **Workforce Investment Act Methods of Administration**

(1) The Department of Community Colleges and Workforce Development will comply with the equal opportunity and nondiscrimination provisions of Section 188 of the federal Workforce Investment Act of 1998 (P.L. 105-220) and 29 CFR part 37 with respect to all programs and activities conducted as part of the Oregon One-Stop delivery system. This includes staff and employment practices of the staff responsible for implementing and administering the Act's programs and activities.

(2) Definitions: As used in OAR 589-020-0100, unless the context requires otherwise:

(a) "One-Stop delivery site" means a Workforce Investment Act center designated by a local board, and other certified centers recognized in the Memoranda of Understanding;

(b) "Workforce Investment Act" means the federal Act as codified in Public Law 105-220.

(3) In conducting both programs and activities that are part of the Oregon One-Stop delivery system, the Department will follow the Methods of Administration promulgated by the Governor in accordance with 29 CFR § 37.4. In particular, the Department shall:

(a) Appoint an agency Equal Opportunity Officer to carry out the duties specified in the Methods of Administration and ensure that, if employed less than full-time as the agency Equal Opportunity Officer, any other duties, responsibilities or activities do not create a conflict of interest or the appearance of a conflict of interest with the duties of the agency Equal Opportunity Officer;

(b) Collect data on participants as required by 29 CFR § 37.37 to 37.41 and the Methods of Administration and provide aggregate data to the state Equal Opportunity Officer and the Department of Labor, as required;

(c) Permit the designated state Equal Opportunity Officer to monitor the Department's compliance with the Workforce Investment Act, 29 CFR part 37, and the Methods of Administration by providing the state Equal Opportunity Officer access to:

(A) One-Stop delivery sites, including affiliate sites, from which the Department operates its programs and activities;

(B) Equal Opportunity Notices created by the Department and provided to participants; and

(C) Any contracts, grants, interagency agreements, or other arrangements between the Department and other providers pertaining to programs and activities provided in the One-Stop system; and

(D) Data required to be collected pursuant to paragraph (b).

(d) Develop procedures and adopt administrative rules, as necessary, to comply with and monitor compliance with the Workforce Investment Act, 29 CFR part 37, and the Methods of Administration by:

(A) The Department and its employees;

(B) Recipients of financial assistance from the agency under Title I of the Workforce Investment Act and their employees; and

(C) Entities operating programs or activities, or providing services, conducted as part of the Oregon One-Stop delivery system on behalf of the Department, and employees thereof, including training providers; and

(e) Ensure that the agency's Equal Opportunity Officer and other appropriate staff attend scheduled periodic training about the Methods of Administration and associated duties; and

(f) Comply with any corrective actions imposed by the Governor for violations of the nondiscrimination and equal opportunity provisions of the Workforce Investment Act, 29 CFR part 37, and the Methods of Administration and cooperate with any investigative activities or monitoring requirements of the state Equal Opportunity Officer.

(4) Notwithstanding periodic monitoring by the state Equal Opportunity Officer, the Department is responsible for all violations of the nondiscrimination and equal opportunity provisions of the Workforce Investment Act, 29 CFR part 37, and the Methods of Administration committed by:

(a) The Department and its employees;

(b) Recipients of financial assistance from the Department under Title I of the Workforce Investment Act and their employees; and

(c) Entities operating programs or activities, or providing services, conducted as part of the Oregon One-Stop delivery system on behalf of the Department, and employees thereof, including training providers.

| Stat. Auth.: ORS ~~326.370~~ 351.755

Stats. Implemented:

Hist.: DCCWD 4-2002, f. & cert. ef. 9-23-02; DCCWD 6-2003, f. & cert. ef. 10-20-03

**Distribution of WIA Title IB State Incentive Grants for Local Performance Measures**

(1) Purpose: This rule establishes the requirements and methodology that the Department of Community Colleges and Workforce Development will utilize for distribution of state incentive grants and performance improvement plans pursuant to the federal Workforce Investment Act (WIA), PL 105-220, its amendments and regulations thereto.

(2) Definitions:

(a) Continuous Performance Improvement Plan: Funds made available to Local Workforce Investment Areas (LWIAs) that achieve a cumulative program area score less than 100% and at least 80% of the negotiated performance level on each performance indicator within a program area. See agency Policy 589-20.2 for application process.

(b) Cumulative Program Area Score: The aggregate amount by which a Local LWIA exceeds or falls below the negotiated performance levels in a particular program area.

(c) Exemplary Performance: Having achieved a cumulative program area score greater than 100% and at least 80% of the negotiated performance level on each performance indicator within a program area.

(d) Failure to Meet: Actual performance for any of the performance indicators that falls below the negotiated level of performance. Technical assistance is required to be provided under WIA Section 134(a)(2)(B)(iv) to Local Workforce Investment Areas (LWIAs) that fail to meet local performance measures.

(e) Grantee: Recipient of grant funds from the Department of Labor. Refers to the Department of Community Colleges and Workforce Development (CCWD).

(f) Incentive Awards: Funds awarded to LWIAs that meet Exemplary Performance.

(g) Incentive Grants: A portion of the Statewide Employment and Training Activities funds under WIA Title IB Section 134(a)(2)(B)(iii) and (vi) that is required to be used to award exemplary performance by local areas on the local performance measures and to provide technical assistance for LWIAs that fail to meet local performance measures.

(h) Local Performance Measure: A performance measure established under Section 136(c) of WIA. Local performance measures consist of the core performance indicators established under Section 136(b)(2)(A) of WIA and fall into four program areas - adult, dislocated worker, youth, and customer satisfaction.

(i) Local Workforce Investment Area(s): The area(s) in the state designated by the Governor under Section 116 of WIA to which WIA Title IB funds are allocated to carry out WIA Title IB programs.

(j) Mandatory Performance Improvement Plan: LWIAs that achieve a cumulative program area score of less than 100% and less than 80% of the negotiated performance level on a performance indicator within a program area must prepare and seek funding for a plan to address failure to meet performance. See agency Policy 589-20.2 for application process.

(k) Negotiated Performance Level: The numeric performance targets agreed to by the State and the LWIA for each of the core performance indicators.

(l) Performance Measures: The performance indicators required by the Workforce Investment Act of 1998.

(m) Program Area: Four program areas used in the evaluation of performance for incentive purposes; adults, dislocated workers, youth, and customer satisfaction.

(n) Program Year (PY): The period July 1 through June 30 of each year.

(3) Available WIA funds shall be reserved for incentive awards and awarded in accordance with the following criteria:

(a) To be eligible for an incentive award for a program area, the LWIA must achieve a cumulative average score greater than 100% for the performance measures in a given program area (adult, dislocated worker, youth, or customer satisfaction); and

(b) The LWIA must achieve at least 80% of the negotiated performance level on each performance measure within a given program area.

(c) Incentive funds shall be awarded annually after the end of each Program Year (PY), when data to compute actual performance becomes available.

(4) Funds available to each LWIA, which may be earned in accordance with (3)(a) and (b) shall be determined:

(a) By calculating the percent each of the adult, youth and dislocated worker program's PY allocation is of the total PY allocation;

(b) By multiplying the total funds available for incentive awards by the percentages identified in (5)(1) of this OAR to arrive at the available funds for each program (adult, dislocated worker, and youth); and finally

(c) By multiplying the amounts identified in (5)(b) of this OAR for each program by the PY allocation percentages of each LWIA for the respective program; these products are then added to arrive at the total funds that each LWIA might earn.

(5) Funds available to be earned for each program area (adult, dislocated worker, youth and customer satisfaction) shall be calculated in the following manner:

(a) Each program area bears equal weight (25% for each of the four program areas).

(b) The total funds that each LWIA might earn ((4)(c) of this OAR) are multiplied by 25% to arrive at the amount that might be earned for each program area (adult, dislocated worker, youth, and customer satisfaction).

(6) Incentive awards will be made from funds available for that purpose out of current year funding, e.g., PY'04 incentive funds are used to reward PY'03 performance.

(7) Awarded incentive funds may be used for any activities allowed under WIA Title IB.

(8) Definitions used for performance measures shall conform to those provided by the Department of Labor in Training and Employment Guidance Letter (TEGL) 17-05.

(9) Incentive awards shall only be applied to performance in Title IB programs.

(10) Funds for Continuous Performance Improvement Plans and Mandatory Performance Improvement Plans will be made available for LWIAs whose cumulative program area scores fall below 100% of the negotiated level.

(a) LWIAs whose cumulative program area score falls below 100% of the negotiated performance level may seek funding for Continuous Performance Improvement Plans.

(b) LWIAs whose cumulative program area score falls below 80% of the negotiated performance level must develop and seek funding for Mandatory Performance Improvement Plans.

(c) Funds may be used for any allowable WIA Title IB activities in support of a Continuous Performance Improvement Plan or Mandatory Performance Improvement Plan to correct identified deficiencies that led to failure to meet agreed upon levels of performance.

(d) Continuous Performance Improvement Plan and Mandatory Performance Improvement Plan awards will not exceed the amount the LWIA would have earned had performance been met.

(e) LWIAs seeking funds to support Continuous Performance Improvement Plan or Mandatory Performance Improvement Plan must submit the plan in writing to the Department of Community Colleges and Workforce Development. The plan shall be submitted timely, identify the problem/issue to be remedied, and provide a budget supporting the work to be accomplished.

(11) Funds remaining after distribution of all incentive awards, and Continuous Improvement Plan and Mandatory Performance Improvement Plan awards will revert to CCWD's 15% Statewide Activities Fund for allowable uses at the discretion of the Commissioner.

| Stat. Auth.: ORS ~~326.370~~ 351.755

Stats. Implemented:

Hist.: DCCWD 4-2002, f. & cert. ef. 9-23-02; DCCWD 6-2003, f. & cert. ef. 10-20-03; DCCWD 3-2006(Temp), f. & cert. ef. 6-15-06 thru 11-30-06; DCCWD 7-2006, f. 11-14-06, cert. ef. 11-15-06

## **Employer Workforce Training Fund**

(1) Purpose: The Employer Workforce Training Account (EWTA) was established by Executive Order #03-16 to support the retention and growth of living wage jobs, a skilled workforce, and competitive businesses in Oregon. To administer the EWTA, the Department of Community Colleges and Workforce Development (CCWD) established the Employer Workforce Training Fund (EWTF). This workforce development strategy must ensure that public and private sector investments are leveraged for the greatest impact and that training programs are responsive to the needs of business, industry, and the workers.

(2) Definitions:

(a) Employer Workforce Training Account (EWTA): Established by Executive Order to support the Governor's economic recovery plan to ensure that a skilled workforce available to keep Oregon's industries productive and competitive.

(b) Employer Workforce Training Fund (EWTF): Includes Workforce Response Team (WRT) funds, EWTF Statewide Opportunity funds (SO) and the EWTF Governor's Strategic Training Fund (GSTF).

(3) General Provisions: Employer Workforce Training Fund (EWTF).

(a) The EWTF has three outcome goals:

(A) Create and retain living wage jobs in Oregon;

(B) Build a highly skilled workforce, especially in high-wage, high-demand industries;

(C) Enhance the global competitiveness of Oregon businesses based on the skill of their workforce.

(b) The EWTF includes Oregon's Workforce Investment Act (WIA) allocation, identified as reserve funds, under section 128(a) and 133(a) of the WIA.

(c) The OWIB Strategic Plan gives direction to the EWTF which is most advantageous economically to the state and workforce regions. The direction for EWTF funds may be updated at the direction of the OWIB and the Governor or his designee through the OWIB Strategic Plan.

(d) All employers and partner agencies participating in regional or statewide EWTF projects must meet the requirements of the CCWD Methods of Administration (MOA).

(e) OWIB must notify CCWD annually, prior to July 1, of the funding allocation for EWTF. A minimum of 65% of the funds shall be allocated regionally for WRT purposes. The remainder will be allocated at OWIB's discretion for SO and GSTF.

(f) CCWD shall allocate and distribute EWTF in accordance with the OWIB allocation. All funds must be expended on a cost reimbursement basis.

(g) EWTF projects must comply with all applicable federal, state and local laws, rules, regulations, executive orders, ordinances or orders applicable to this funding.

(h) All participants in any EWTF award decision must comply with conflict of interest requirements at 29 CFR 667.200(a)(4)(i) by neither casting a vote on, nor participating in any decision-making capacity.

(i) All EWTF projects are subject to CCWD Monitoring.

#### (4) EWTF Workforce Response Team (WRT) Funds

(a) The EWTF WRT funds shall be used to support the training of workers at outlined in CCWD policy 589-20.4.

(b) CCWD shall distribute the WRT funds to the Local Workforce Investments Boards for regional distribution through the local plan.

#### (5) EWTF Statewide Opportunity (SO) Funds:

(a) The SO funds are awarded for the purpose of solving challenges or engaging in opportunities in Oregon with regard to its workforce development needs. SO funds will be focused in opportunity areas identified by the OWIB and the Governor or his designee.

(b) OWIB will:

(A) Seek, identify, and/or select proposals based on strategic plan priorities;

(B) Establish eligibility criteria and application process for SO grants;

(C) Set performance measures and reporting for SO projects;

(D) Approve SO projects;

(E) Adopt policies as needed for SO funds.

(c) CCWD will administer the EWTF SO funds.

#### (6) EWTF Governor's Strategic Training Fund (GSTF):

(a) The GSTF supports the retention and growth of living wage jobs, a skilled workforce, and competitive businesses in Oregon. GSTF is a flexible, responsive, and time-sensitive resource for training Oregon's private sector workforce. The emphasis is to upgrade the skills of the workforce in order to increase productivity, keep Oregon businesses viable and competitive, and offer new skills and opportunities to Oregon's workers. The Governor or his designee, the Oregon Economic and Community Development Department (OECDD), CCWD and OED will set the broad criteria for GSTF. Funding decisions shall be made by the Governor and/or his designee. Upon the Governor's approval, an approved application will be sent to CCWD to award funds.

(b) OWIB will coordinate with the Governor and/or his designee to:

(A) Establish eligibility criteria and application process for GSTF projects;

(B) Set performance measures and reporting for GSTF projects;

(C) Coordinate approval of GSTF projects decisions with the Governor and/or his designee;

(D) Adopt policies as needed for GSTF.

(c) CCWD will administer the EWTF GSTF.

Stat. Auth.: ORS 660.318

Stats. Implemented: 660.318 [2001 c.684 §11]

Hist.: DCCWD 2-2004, f. & cert. ef. 11-30-04; DCCWD 4-2006(Temp), f. & cert. ef. 6-15-06 thru 11-30-06; DCCWD 5-2006, f. & cert. ef. 9-15-06; DCCWD 1-2008(Temp), f. & cert. ef. 9-18-08 thru 3-17-09; DCCWD 2-2008, f. & cert. ef. 12-29-08



## **589-020-0270**

### **Performance Measures Improvement**

(1) Purpose: The purpose of this rule is to establish the requirements and procedures that take effect if a Local Area fails to meet the local performance measures negotiated with the Department pursuant to the federal Workforce Investment Act (WIA), PL 105-220, its amendments and regulations thereto.

(2) Definitions: As used in OAR 589-020-0270, unless the context requires otherwise:

(a) Failure to Meet: Actual performance for any of the 17 core performance indicators that falls below 80% of the negotiated level of performance. Technical assistance is required to be provided under WIA Section 134(a)(2)(B)(iv) to Local Workforce Investment Areas (LWAs) that fail to meet local performance measures.

(b) Negotiated Levels of Performance: The numeric performance target agreed to by the Department and the LWA for each of the 17 core performance indicators.

(c) Performance Measures: the 17 performance indicators required by the Workforce Investment Act of 1998, section 136; Final Rules, 20 CFR part 666, published at 65 federal Register 49419 (August 11, 2000).

(d) Program Area: A cluster of measures used in the evaluation of performance for incentive or improvement purposes. There are four program areas: Adults, Dislocated Workers, Youth (both older and younger youth), and customer satisfaction (even though it is not technically a "program").

(e) Unawarded Incentive Grant Funds: Those funds remaining after all incentive awards have been made.

(3) The LWA must achieve at least 80% of the negotiated performance level on each performance measure within a given program area to qualify as having met performance.

(4) Technical assistance shall be provided by the Department or upon request by the Department, the U.S. Department of Labor, Employment and Training Administration, if an LWA fails to meet negotiated levels of performance relating to a program area for any program year.

(a) Technical assistance may include assistance in the development of a performance improvement plan, or the development of a modified local plan.

(b) The following criteria must be considered in providing technical assistance:

(A) The action taken must be remedial in nature rather than punitive; and

(B) Action taken must be appropriate to remedy the problem causing the poor performance.

(5) When the Department determines the local area has failed to meet any negotiated performance, the Department notifies the local area. Upon such notification, the procedures described below shall be followed:

(a) The local area analyzes the problem relative to the failed indicator(s);

(b) The local area develops and submits a program improvement plan to the Department within 30 calendar days of notification from the Department designed to address performance not achieved. The plan shall include proposed actions and costs. The local area may request the assistance of the Department in developing the program improvement plan.

(c) Within 30 calendar days following receipt of the plan, the Department reviews and may approve the program improvement plan based on the following criteria:

(A) The plan adequately addresses the indicator(s) not achieved; and

(B) The costs of the planned action are reasonable.

(d) If the program improvement plan is not approved, the Department notifies the local area of the decision and provides assistance to address the issues resulting in the plan disapproval.

(6) Upon approval of the program improvement plan by the Department, Unawarded Incentive Grant funds shall be made available in accordance with OAR 589-020-0260 for technical assistance/program improvement to those local areas whose performance for any of the 17 core performance indicators falls below 80% of the negotiated performance level.

(7) If failure to meet performance as defined in (2)(a), (3) and (4) of this OAR continues for a second consecutive year, the Department shall take corrective action which may include development of a reorganization plan through which the Department may:

(a) Require the appointment and certification of a new local board (consistent with the criteria established under WIA Section 117(b);

(b) Prohibit the use of eligible providers and one-stop partners identified as achieving a poor level of performance; or

(c) Take such other actions as the Department determines are appropriate to improve the performance of the local area including those identified in (4) through (6) of this OAR. Other actions may include the selection of an alternative entity to administer the program(s) for the local area. The alternative entity may be a newly formed workforce investment board or any agency jointly selected by the Department and the chief elected official(s) of the LWA.

(8) A local area that is subject to a reorganization plan under (7) of this OAR may, not later than 30 days after receiving notice of the reorganization plan, appeal to the Department to rescind or revise such plan. In such case, the Department shall make a final decision not later than 30 days after the receipt of the appeal.

(a) The decision of the Department shall become effective at the time the Department issues the decision pursuant to (8) of this OAR. Such decision shall remain effective unless the Secretary of the U.S. Department of Labor rescinds or revises such plan pursuant to (8)(b) of this OAR.

(b) The local area may, not later than 30 days after receiving a decision from the Department pursuant to (8) of this OAR, appeal such decision to the Secretary of the U.S. Department of Labor. In such case, the Secretary shall make a final decision not later than 30 days after the receipt of the appeal.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS ~~326.370~~ 351.755

Stats. Implemented: ORS ~~326.370~~ 351.755

Hist.: DCCWD 6-2002, f. & cert. ef. 12-4-02 thru 6-2-03; DCCWD 4-2003, f. & cert. ef. 5-14-03

589-020-0300

**Procedure for Resolving a Non-Criminal Allegation of a Violation of the Act, Regulations, Grant or Other Agreement Under the Workforce Investment Act Filed Directly Against the Department of Community Colleges and Workforce Development**

(1) If there is a complaint against the Department (CCWD) and the complainant is a Local Workforce Area subrecipient, another grant recipient, or other entity receiving WIA funds directly from the Department, the initial complaint must be filed at the State level with CCWD. Complainants are entitled to an opportunity for informal resolution of the complaint and a contested case hearing.

(2) Both the informal resolution process and the contested case hearing must be completed within 60 days of receipt of a complaint.

(3) These procedures shall be used for the resolution of complaints arising from actions, such as audit disallowance or the imposition of sanctions, taken by the governor with respect to audit findings, investigations, or monitoring reports.

Stat. Auth.: ORS ~~326.370~~ 351.755; 660.318

Stats. Implemented: ORS ~~285A.455~~ 660.312

Hist.: EWP 3-2000, f. & cert. ef. 12-22-00; EWP 3-2007(Temp), f. & cert. ef. 12-13-07 thru 6-6-08; EWP 1-2008, f. & cert. ef. 4-14-08; Renumbered from 151-020-0045, DCCWD 4-2009, f. & cert. ef. 8-31-09

## Confidentiality – Definitions

(1) "Exiter" means a participant who has a date of case closure, completion or known exit from WIA-funded or non-WIA funded partner services within the quarter (hard exit); or a participant who does not receive any WIA-funded or non-WIA funded partner service for 90 days and is not scheduled for future services except follow-up services (soft exit).

(2) "Participant" means a person applying for or receiving training in programs conducted under Title IB of the Act.

(3) "Participant behavioral records" are records which include, but are not limited to, psychometric testing, personality evaluations, written transcripts of incidents relating to participant behavior, grades, conduct, personal and academic evaluations, counseling, alcohol or substance abuse evaluation and/or treatment, disciplinary actions, if any, and other personal evaluations.

(4) "Participant records" include all participant records, participant behavioral records and documents which contain personally identifiable information maintained by the recipient and its subrecipients.

(5) "Personally identifiable" means that the participant records include:

(a) The name of the participant, the participant's parents;

(b) Other family members;

(c) The address of the participant;

(d) A personal identifier, such as the participant's Social Security number or phone number;

(e) A list of personal or physical characteristics which would make the participant's identity easily traceable; or

(f) Other information which would make the participant's identity easily traceable.

(6) "Program staff" means Recipient and Subrecipient staff.

(7) "Recipient" means the Governor and the Department.

(8) "Release" means to make participant records available to individuals, agencies or businesses for inspection in original or duplicate form.

(9) "Surrogate" means an individual who acts in the place of a parent or guardian in safeguarding a participant's rights when the parent or guardian is unknown (the parent cannot be identified or ascertained by diligent inquiry), unavailable (after reasonable effort, the whereabouts of the parents cannot be ascertained) or the participant is a ward of the State. "Surrogate" may also apply to disabled adults who have a designated legal guardian or advocate.

Stat. Auth.: ORS ~~326.370~~ 351.755; 660.318

Stats. Implemented: ORS ~~285A.455~~ 660.312

Hist.: EWP 1-2000(Temp), f. 6-30-00, cert. ef. 7-1-00 thru 12-27-00; Renumbered from 151-020-0060, DCCWD 4-2009, f. & cert. ef. 8-31-09

### Authority to Request Social Security Numbers

(1) The purpose of this rule is to establish legal authority, policy and procedures for obtaining and using Social Security numbers from participants to comply with record-keeping and performance measurement requirements for services provided under Title IB of the federal Workforce Investment Act of 1998 (P.L. 105-220)(WIA).

(2) It is the policy of Department of Community Colleges and Workforce Development (Department) and providers of WIA Title IB services to request participants registering for or participating in services provided in relation to WIA Title IB services or activities to voluntarily provide and authorize the use of their Social Security numbers. Participants are requested to release their Social Security numbers for purposes of record keeping related to referral and service delivery, and for performance measurement, research, planning and program evaluation. The request shall notify the participant that:

(a) Release of the Social Security number is voluntary;

(b) Request for release is made under authority of this rule; ORS ~~285A.455 and 285A.461~~ 660.312; and WIA sections 136, 185 and 188, 29 USC 2871, 2935 and 2938; and

(c) The specific uses that will be made of the Social Security number. Those specific uses must be described in the notification.

(3) Procedures: The request to a participant to release his or her Social Security number shall conform to forms and/or procedures developed by the Department. Any alteration in the wording or procedure must be approved by the Department. When an individual registers or applies for WIA Title IB services, the individual will be provided with a notice about the request to obtain and use the Social Security number. Individuals will be requested to voluntarily agree to the use of Social Security numbers for the uses described in that notice.

(a) Refusal to voluntarily disclose or permit the use of his/her Social Security number by the individual will not be used as a basis to deny the individual any right, benefit or privilege provided solely under Title IB of the Workforce Investment Act.

(b) Any specific program that requests or requires disclosure of a Social Security number in relation to or as a condition of eligibility to participate in that specific program (such as unemployment compensation, Temporary Assistance for Needy Families, food stamps or Oregon Health Plan) will separately advise applicants about those specific eligibility requirements. If an individual refuses to voluntarily consent to disclosure of his or her Social Security number for WIA Title IB purposes, but releases the Social Security number as a mandatory condition for participating in a specific program, the mandatory program will mask the Social Security number or take any other appropriate action to ensure it is used only for purposes allowed under the mandatory disclosure requirement.

(c) A completed form that authorizes the use of Social Security numbers and related records for WIA Title IB purposes will remain valid unless or until revoked, and the Department and providers in the WIA Title IB service delivery system may utilize the Social Security numbers for authorized purposes.

(d) If an individual refuses to authorize the use or disclosure of his or her Social Security number, the Department or WIA IB provider may assign an alternative individual identification number. Such number is personally identifiable information and is governed by disclosure requirements under the Public Records Law, ORS 192.410 to 192.505.

(e) Participants receiving services funded by WIA Title IB who enter work-based programs such as on-the-job training or work experience activities will be required to disclose their Social Security numbers for employment or payroll purposes. All other provisions of this rule will apply to the use of the Social Security number.

(f) Social Security numbers will not be disclosed to the general public.

Stat. Auth.: ORS ~~326.370~~ 351.755; 660.318

Stats. Implemented: ORS ~~285A.455~~ 660.312

Hist.: EWP 2-2000, f. 7-7-00, cert. ef. 7-7-00 thru 12-27-00; EWP 3-2000, f. & cert. ef. 12-22-00; Renumbered from 151-020-0065, DCCWD 4-2009, f. & cert. ef. 8-31-09

## **589-020-0330**

### **Confidentiality**

(1) This Oregon Administrative Rule (OAR) provides information to the recipient and subrecipients when making decisions concerning the disclosure of information from applicant and participant records. The purpose of the OAR is:

- (a) To protect applicants and participants from unreasonable invasions into their privacy;
- (b) To give applicants and participants access to their records; and
- (c) To inform applicants and participants about the reasonable uses of their records for purposes of administering the WIA.

(2) As used in 589-020-0330 the following definitions apply:

(a) "Applicant" means a person applying or registering for services in programs conducted under Title IB of the Act.

(b) "Participant" means a person applying for or receiving services in programs conducted under Title IB of the Act.

(c) "Personally identifiable" means that the applicant or participant records include:

- (A) The name of the applicant or participant, their parents; or
- (B) Other family members;
- (C) The address of the applicant or participant;
- (D) A personal identifier, such as the applicant's or participant's Social Security number or phone number;
- (E) A list of personal or physical characteristics which would make the applicant's or participant's identity easily traceable, or
- (F) Other information which would make the applicant's or participant's identity easily traceable.

(d) "Surrogate" means an individual who acts in the place of a parent or guardian in safeguarding an applicant's or participant's rights when the parent or guardian is unknown (the parent cannot be identified or ascertained by diligent inquiry), unavailable (after reasonable effort, the whereabouts of the parents cannot be ascertained) or the applicant or participant is a ward of the State. "Surrogate" may also apply to disabled adults who have a designated legal guardian or advocate.

(3) No applicant or participant records shall be released without the express consent of the applicant or participant, their parent or legal guardian or surrogate, except as noted in this rule.

- (a) An applicant or participant may provide written consent for the examination or release of his/her records;
- (b) An applicant or participant who is under the age of 18 and is not legally emancipated shall not authorize the release of any records pertaining to him/herself without the written consent of their parent, legal guardian or surrogate unless otherwise provided for herein;
- (c) Custodial and non-custodial parents share equal access to applicant or participant records unless a court order is presented to the contrary.

(4) Records of applicants or participants, who are at least 18 years of age, shall not be released to anyone, including their parent, legal guardian or surrogate, without the written consent of the applicant or participant unless otherwise provided pursuant to applicable state or federal law.

(5) To the extent otherwise authorized by applicable state or federal law, release of applicant or participant records is authorized for purposes of:

(a) As required to meet emergency medical or other unusual circumstances, but only if the release of such information is necessary to protect the health and safety of the applicant or participant or other individuals;

(b) Among subrecipient staff, and subrecipients and their contractors when necessary for the provision of effective and efficient services or as necessary with other one-stop programs for which the clients may be eligible and only with a properly executed release of information form;

(c) Pursuant to a court order or lawfully issued subpoena;

(d) To authorized federal, state or local staff, or designee, to determine compliance with nondiscrimination and equal employment opportunity requirements under 29 CFR Part 37;

(e) To public agencies when the applicant or participant has applied to the agency for assistance or service or is receiving such assistance or service only with a properly executed release of information form;

(f) To private auditing firms employed by the subrecipient to carry out monitoring of its programs for internal purposes only with a properly executed release of information form;

(g) To organizations who provide test scoring and/or data analysis provided that the organization has established written policies to preserve the confidentiality of the records, will not send reports containing applicant or participant personally identifiable information to anyone other than the organization requesting the service; and applicant or participant record information will not be disclosed when disclosure would constitute a clearly unwarranted invasion of personal privacy only with a properly executed release of information form;

(h) To organizations, including state and federal workforce development, educational agencies and community colleges and their local boards, conducting studies for or on behalf of employment and training agencies, educational agencies, the State of Oregon Workforce Investment Board for purposes which may include developing, validating, or administering predictive tests, program enhancement or in order to develop statistical and demographic data to facilitate the creation of strategies to improve the education, training and quality of Oregon's workforce provided that:

(A) The information shall be used only for the purposes for which it is made available; and

(B) Personally identifiable information contained in the applicant or participant records has been transformed or otherwise encoded by a staff member from the agency releasing the records to a form usable by the organization conducting the study or, if applicable, to those standards required by the Shared Information System, in order to safeguard the identity of the applicant or participant.

(6) The subrecipients shall establish policies for protecting the confidentiality of applicant or participant records and procedures for releasing or examining such records which will include all of the following:

(a) Hours during which record release or examination may occur;

(b) That a written request for such release or examination must be made;

(c) That the request specifically identify the applicant or participant record to be examined;

(d) That the requestor provide his or her name and address;

(e) The person to whom such requests should be directed (normally the custodian of records);



(f) That the fee schedule for record production not exceed the actual cost of production, including staff time, in locating, reviewing and copying the records; and

(g) A record of each release, for which an applicant or participant, parent, legal guardian or surrogate's written consent is required, shall be maintained. Such record shall include the name of the party seeking access, the date access was granted, and the purpose for which the party requested or was authorized to use the records. The records of disclosure should be kept with, but not released or examined as a part of, the applicant's or participant's records. If participant behavioral records are released, the record of disclosure shall include the name of the individual who explained the behavioral portion of the records.

Stat. Auth.: ORS ~~326.370~~ 351.755; 660.318

Stats. Implemented: ORS ~~285A.455~~ 660.312

Hist.: EWP 3-2000, f. & cert. ef. 12-22-00; Renumbered from 151-020-0075, DCCWD 4-2009, f. & cert. ef. 8-31-09

**Eligible Training Provider – Definitions**

(1) "Adult Education" Services or instruction below the postsecondary level for individuals who:

- (a) Have attained 16 years of age;
- (b) Are enrolled or required to be enrolled in secondary school under State law; and
- (A) Lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society;
- (B) Do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education; or
- (C) Are unable to speak, read, or write the English language.

(2) In order for Adult Education and literacy activities to be considered a training activity, it must be in combination with any of the following:

- (a) Occupational training,
- (b) On-the-Job training,
- (c) Programs that combine workplace training with related training,
- (d) Occupational skills training programs,
- (e) Skill upgrading and training,
- (f) Entrepreneurial training, and
- (g) Job readiness training.

(3) "Apprenticeship Training" One to six year programs that are structured, paid on-the-job training directly supervised by journey persons in a trade. Programs include related technical instruction of at least 144 hours per year. Apprenticeship programs are based on agreements between employers and apprentices and are approved and registered with the registration agency (state or federal).

(4) "Contracted Training" is designated to prepare specifically identified individuals for entrance into the workforce in a particular occupation or group of occupations. Training is generally offered through a contract between an agency, business, or other entity and a training provider. Performance outcomes are a key component of the agreement and are the responsibility of the sponsoring organization.

(5) "Customized Training" Training that is:

- (a) Designed to meet the special requirements of an employer (including a group of employers);
- (b) Conducted with a commitment by the employer to employ an individual on successful completion of the training; and
- (c) For which the employer pays for not less than 50% of the cost of the training.

(6) "Entrepreneurial Training" Training that provides an individual with the knowledge and skills to start and grow a business.

(7) "Occupational Skills Training" Programs designed to prepare persons with the skill and knowledge to enter employment in a specific occupation or group of occupations. Programs vary in length depending on the current knowledge of the participant and the skills necessary for employment in the particular field.

(8) "On-the Job Training" Training by an employer that is provided to a paid participant while engaged in productive work in a job:

(a) Provides knowledge or skills essential to the full and adequate performance of the job;

(b) Provides reimbursement to the employer of up to 50% of the wage rate of the participant, for the extraordinary costs of providing the training and additional supervision related to the training; and

(c) Is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate.

(9) "State List of Eligible Training Providers and Programs" The sanctioned state list of training programs that are certified for use by WIA Participants, WorkSource Oregon Centers and others to provide training services under the Workforce Investment Act under Title IIB for Adult and Dislocated Workers.

(10) "Workplace Training and Related Instruction" A program of study that combines occupational skills training, related instruction and work-experience to provide persons with the skills, knowledge and abilities to enter employment in a specific occupation or group of occupations.

Stat. Auth.: ORS ~~326.370~~ 351.755; 660.318

Stats. Implemented: ORS ~~285A.455~~ 660.312

Hist.: EWP 1-2000(Temp), f. 6-30-00, cert. ef. 7-1-00 thru 12-27-00; EWP 3-2000, f. & cert. ef. 12-22-00;  
Renumbered from 151-020-0100, DCCWD 4-2009, f. & cert. ef. 8-31-09

**Eligible Training Provider Process**

(1) The workforce investment system established under WIA emphasizes informed customer choice, system performance, and continuous improvement. The eligible provider process is part of the strategy for achieving these goals. This rule sets forth the procedures that Local Boards, in partnership with the State, shall follow to identify providers whose performance qualifies them to receive WIA funds to provide training services to adults and dislocated workers.

(2) A provider is initially eligible to receive WIA Title IB funds to provide training services to eligible adult and dislocated worker participants through an individual training account if they are placed on the statewide list of eligible providers pursuant to this section.

(3) Training services to be provided under the Act using training providers on the Statewide List of Eligible Training Providers shall include the following:

- (a) Apprenticeship;
- (b) Entrepreneurial Training;
- (c) Occupational Training Programs (Occupational Skills Training);
- (d) Occupational Course(s) of Study;
- (e) Workplace Training Programs;
- (f) Adult Education, if in combination with any one of a-e, above; and
- (g) Local Boards, if they meet the conditions of WIA section 117(f)(1).

(4) On-the-job training and customized training providers need not be on the Statewide List of Eligible Training Providers and Programs to receive Title IB funds.

(5) Community-based organizations and other private organizations serving participant groups that face multiple barriers to employment need not be on the Statewide List of Eligible Training Providers and Programs to receive Title IB funds.

(6) Training providers may submit an application to any of the Local or Regional Workforce Investment Boards in the State to be approved for inclusion on the Statewide List of Eligible Training Providers and Programs.

(7) To be eligible to be a training provider on the Statewide List of Eligible Training Provider and Programs, the provider shall meet:

- (a) All applicable state and federal licensure requirements.
- (b) The requirements of 20 CFR 663 subpart E, WIA section 122, and any local criteria adopted by Local Boards.

(8) The Department is responsible for:

(a) Establishing the procedure for use by the local boards to determine initial and subsequent eligibility of a provider who seeks to receive WIA funds to deliver a program of training services.

(A) The procedure shall specify that institutions and organizations that are Higher Education Act Title IV or National Apprenticeship Act eligible shall be considered automatically eligible to be on the Statewide List of Eligible Training

Providers and Programs through June 30, 2001 once they have submitted a complete and accurate application with information on the school, institution or organization and on the program or course of study for which they seek ETP certification.

(B) For those institutions and organizations not listed in subsection (7)(a)(A), the procedure shall require them to submit additional information relating to performance criteria including:

- (i) Organizational Capacity,
- (ii) Training Services Capacity,
- (iii) Focus on Employment and Training Needs,
- (iv) Facilities, Equipment and Safety,
- (v) Employment Opportunities,
- (vi) Student Evaluation and Monitoring,
- (vii) Special Population Services,
- (viii) Demonstrated Performance,

(b) Developing and maintaining the State List of Eligible Providers and Programs, which is comprised of approved providers, submitted by Local Boards;

(c) Having on file a signed statement from each Eligible Training Provider that the provider assures the accuracy and truthfulness of applications prior to certification and inclusion on the State List of Eligible Training Providers and Programs.

(d) Verifying the accuracy of the information submitted by the provider as required by the Act, in consultation with the Local Board;

(e) Removing providers who do not meet the requirements of this section or who do not meet program performance levels;

(f) Taking appropriate enforcement actions, against providers in the case of the intentional provision of inaccurate information, as described in WIA section 122(f)(1), and in the case of a substantial violation of the requirements of WIA, as described in WIA section 122(f)(2);

(g) Disseminating the State list, accompanied by cost information relating to each provider, to One-Stop operators throughout the State; and

(h) Adopting a grievance procedure for training providers whose application was removed from the statewide list.

(9) The Local Board shall:

(a) Develop an application or use the state approved application seeking the information required by the state pursuant to this section as well as any additional application components and criteria identified by the local board;

(b) Accept applications from those interested in becoming an eligible training provider;

(c) Develop a process for reviewing and approving all completed applications;

(d) Forward all approved applications to the Department;

(e) Adopt a grievance procedure for training providers whose application is not approved; and

(f) Make the complete Statewide List of Eligible Training Providers and Programs available to participants and customers through the WorkSource Oregon Centers.

(10) The Department shall administer the criteria and application procedures and provide guidance to Local Boards to be used in administering the eligible training provider process at the local level.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS ~~326.370~~ 351.755; 660.318

Stats. Implemented: ORS ~~285A.455~~ 660.312

Hist.: EWP 1-2000(Temp), f. 6-30-00, cert. ef. 7-1-00 thru 12-27-00; EWP 3-2000, f. & cert. ef. 12-22-00;

Renumbered from 151-020-0110, DCCWD 4-2009, f. & cert. ef. 8-31-09